

NATIONAL ASSEMBLY

Law no. 5/93 of 28th December

Due to long term experience gained in the management and execution of immigration and the need to reflect current changes of International Conventions upon Mozambican Law (particularly to those which Mozambique is a signatory or to those it might join) there is a need to adopt a juridical board competent in this area.

Due to this need, it is considered advantageous to consolidate the numerous existing Mozambican juridical norms and practices. Accordingly, within the following order no.1 of article 135 of the Constitution, the National Assembly decrees:

CHAPTER I General Disposition

ARTICLE 1 (Scope)

1. This Law establishes juridical regime for foreign citizens namely, norms of entry, residence and departure from the country, rights, duties and privileges while in the country.
2. This law is not applicable to diplomats, permanent consular and their families or those on special missions.

ARTICLE 2 (Exemption from special legislation)

The applicability of this legal regime for the citizen does not affect the established special laws, bilateral or multilateral accords or International Conventions to which Mozambique is a signatory.

ARTICLE 3 (Definitions)

For the purpose of this law the following terms shall mean;

- a) *Foreigner* – all citizens who do not have Mozambican nationality in conformity with the laws in force.
- b) *Resident foreigner* – a foreigner with authorization from competent authorities to reside in the country according to this law.
- c) *Authorization of residence*- a document issued by competent authorities which gives the bearer the right to reside in Mozambique.
- d) *Illegal Immigrant*- anyone who leaves or enters the national territory from any border post without a passport or with a false, incomplete or expired travel documents, as well as those who do not pass through the official border posts even if they have necessary travel documents.

ARTICLE 4
(Rights, Duties and privileges of Foreign citizens)

1. A foreign citizen resident or temporarily resident in the country has the same rights and privileges and is subject to the same duties as a Mozambican citizen.
2. Duties of a foreign citizen in the country are as follows;
 - a) to respect the Constitution of the Republic
 - b) to respect the Law and Order and promptly fulfill other legal prescriptions
 - c) declare his residence
 - d) provide the authorities with information concerning any alterations in his personal situation or whenever these are asked for by competent authorities
3. The right expressed in 1. does not include voting rights or other rights and duties reserved by law for national citizens.

CHAPTER II
Entry of foreign citizens into the country

SECTION 1
Documentation

ARTICLE 5
(Entry into the country)

1. Entry into the country must be gained through official border posts.
2. At the moment of entry, a foreign citizen is subject to immigration procedures by competent authorities among others according to the law.

ARTICLE 6
(Necessary Entry Documents)

For entry into the National Territory the following documents are required:

- a) A passport or any valid travel document and a valid visa issued by competent Mozambican authorities.
- b) other documents established in Conventions or International accords to which Mozambique is a member.

SECTION 11

VISAS

ARTICLE 7
(Entry Visa)

1. An entry visa can be individual or collective, single or multiple.
2. Types of visas
 - a) Diplomatic visa
 - b) Courtesy visa
 - c) Official visa
 - d) Resident visa
 - e) Tourist visa
 - f) Transit visa
 - g) Visitor visa
 - h) Business visa
 - i) Student visa
3. The Ministers Council may define and regulate other types of visas.

ARTICLE 8
(Competence for the granting of visas)

The right to grant visas can only be given by the following organizations:

- a) The Ministry of Foreign Affairs
- b) The Immigration Department
- c) Embassies and Consulates

ARTICLE 9
(Criteria used to accept a visa application)

In order for a visa to be granted the following criteria are used:

- a) The purpose of the visa application and its viability

- b) means of subsistence of the applicant while in Mozambique
- c) financial resources for return to the country of origin

ARTICLE 10
(Resident Visa)

- 1. A foreign citizen may be granted a resident's visa when he wishes to reside in the country
- 2. A resident's visa qualifies the bearer to enter Mozambican Territory where he may apply for a residence authorization, and is valid for a single entry of thirty days, renewable to sixty days.
- 3. A resident's visa application may cover minors and spouses who are dependents of the applicant.

ARTICLE 11
(Tourist Visa)

- 1. A tourist visa is granted to a foreign citizen who wishes to visit Mozambique for the purposes of tourism or recreation.
- 2. The validity of a tourist visa may not exceed ninety days.

ARTICLE 12
(Transit Visa)

- 1. A transit visa is granted to a foreign citizen who needs to enter Mozambique in order to get to the country of his destination.
- 2. The granting of transit visa may be done after presenting a valid visa for the country of destination.
- 3. The visa is granted for a period of not more than seven days.
- 4. A foreign citizen in transit that does not own a transit visa while in the country will observe the instructions given to him by competent authorities.

ARTICLE 13
(Visitor Visa)

- 1. A visitor's visa allows the bearer to enter the National Territory for the purposes accepted by the competent authorities, but does not justify concession of another type of visa.
- 2. A visitor's visa is valid for a minimum period of fifteen days and is renewable up to a maximum period of ninety days.

ARTICLE 14

(Business visa)

1. A business visa is granted to a foreign citizen who wishes to visit the country for business purposes.
2. The period of stay in the country covered by a business visa is thirty days and is renewable up to ninety days.

ARTICLE 15 (Student Visa)

A student visa is granted to a foreign citizen who is to enter into the country for the purpose of study in an officially recognized institution and is valid for a period of twelve months.

ARTICLE 16 (Conditions for obtaining a visa and entry into the country)

1. Apart from the documents specified in article six above, a foreign citizen must also fulfill the following requirements:
 - a) for a collective passport , all persons who wish entry must present themselves to the competent authorities
 - b) be an adult in terms of the law, or if a minor have a written authorization from the father, mother or guardian;
 - c) not being barred from entering the Republic of Mozambique;
 - d) not have been expelled or declared “ persona non grata ” by the Republic of Mozambique
 - e) not to carry out activities which when in the Republic of Mozambique would carry the penalty of expulsion;
 - f) proof of having means of subsistence, either in the application, or during the entry, or a declaration of responsibility issued by an organization or a citizen resident in the country
 - g) any other requirements considered necessary on a case by case basis
2. For visitors to the country representing governments, public institutions or non-governmental organizations, line f) above is not applicable. This is also the case for students.

ARTICLE 17 (Deadlines for use and validity of visas)

Any entry visa must be used within the period of sixty days from the date it was issued and it gives the bearer the right to stay in the country during the period for which it was granted.

ARTICLE 18

(Visa exemption)

The following groups of foreign citizens are exempted from entry visa:

- a) Foreign citizens with authorization to reside in the country.
- b) Foreign citizens from countries which have signed a visa abolition accord with Mozambique.

ARTICLE 19 (Barring from entry)

If Immigration authorities have official knowledge that a barring order has been issued by competent authorities the foreign citizen who has been barred from entry to Mozambique will not be granted entry.

CHAPTER 111 (Authorization of residence)

ARTICLE 20 (Authorization of residence)

Authorization of residence shall be granted by competent government departments to foreign citizens who are bearers of a resident's visa and who satisfy the following requirements;

- a) all those mentioned in lines a), b), c), d), e) and f) of article 16.
- b) authorization of residence to carry out professional activities , lines a), b), c) , d) and e) of article 16 and authorization to carry out the activities according to the law in force.

ARTICLE 21 (Validity and renewal period)

1. Authorization of residence has a validity of one year, and may be renewable for the same period if the stay is agreed to be prolonged.
2. A Resident's visa which has been renewed more than ten consecutive years confers the status of a permanent resident on the bearer.

ARTICLE 22 (Change of residence)

Change of residence of a foreign citizen resident in the country as well as absence from the country for more than ninety days must be communicated to the Immigration authorities within an eight day period alongside with the new residence registration.

ARTICLE 23
(Termination of authorization of residence)

1. Authorization of residence in the country terminates under the following circumstances;

- a) expulsion or declaration of “ persona non-grata”
- b) absence from the country for a period of more than ninety days without informing the competent authorities.
- c) non-renewal of residence authorization.

2. lines b) and c) are not applicable to permanent residents.

CHAPTER IV

ARTICLE 24
(Identification alterations)

Any identification or personal state alterations of a foreign citizen must be communicated to the Immigration authorities within thirty days.

ARTICLE 25
(Accommodation Bulletins)

1. Hotels, hostels, motels, camping parks, lodges and guest houses must communicate with Immigration authorities through individual accommodation bulletins about foreign citizens they are hosting.
2. For a non-resident foreign citizen living in his own residence it is his responsibility to provide the authorities with information about himself or other foreign citizens with whom he is living. (On the same basis as in section 1 of this article, above.)
3. The authorities referred to in section 1 above must also be informed on the departure of a foreign guest or lodger, by the submission of an individual accommodation bulletin.

CHAPTER V

Departure of a foreign citizen from the country

SECTION 1

Departure

ARTICLE 26 (Voluntary Departure)

Departure from the National Territory is done through any official border post, by exhibiting one of the documents specified in article 6 above and those that follow, after fulfilling the required legal formalities.

ARTICLE 27 (Interdiction from Departure)

Departure can be denied if the competent authorities have official knowledge of an arrest warrant or departure barring issued by competent authorities against a person leaving the country.

ARTICLE 28 (Compulsory Departure)

A foreign citizen may be forced to leave the country by virtue of extradition or expulsion in accordance to the law.

SECTION 11

EXPULSION

ARTICLE 29 (Administrative Expulsion)

1. Without prejudice to the regulations stipulated in International Conventions, the Government may expel a foreign citizen from the National Territory under the following situations:

- a) irregular entry into the country
- b) attempt to prejudice national security, public order or well being
- c) carrying out of activities which threaten the interests and dignity of the Mozambican Government and/or its citizens
- d) intervening in internal politics without the Government's authorization
- e) disrespect of the Constitution or other offenses against the Nation
- f) if it comes to the knowledge of the Mozambican authorities that an individual has committed a crime which resulted to his impediment to enter into the country .

2. The accused can appeal to the Ministers Council or to the Supreme Court against the expulsion penalty.
3. The immigration authorities after having knowledge of facts which lead to expulsion, shall commence proceedings and provide evidence against the accused within eight days

ARTICLE 30
(Legal Expulsion)

Without prejudice to the penal legislation, expulsion shall be carried out under the following situations;

- a) If a non-resident foreign citizen is condemned by a Mozambican court to a prison sentence of more than six months.
- b) If a foreign citizen residing in the country for a period of less than five years is condemned by a Mozambican court to a prison sentence of more than one year.
- c) If a foreign citizen residing in the country for more than five years and less than fifteen years is condemned to a prison sentence of more than two years.
- d) If a foreign citizen residing in the country for more than fifteen years is condemned with a maximum penalty.

ARTICLE 31
(Competence to expel and respective procedures)

A provincial Judicial Court has the authority to make a decision on the expulsion of a foreign citizen in accordance with any of the conditions referred to in article 30 of this law.

ARTICLE 32
(Remittance of sentence certificates)

Courts shall send sentence certificates for crimes committed by a foreign citizen to the Immigration authorities within thirty days.

ARTICLE 33
(Competence for the execution of the expulsion process)

1. The Immigration Department has the authority to carry out the expulsion process against a foreign citizen from the National Territory.
2. The expulsion shall always be carried out even if the foreign citizen is given a bail out.

ARTICLE 34

(Obligations of a Foreign citizen as to expulsion process)

1. During the expulsion process, a foreign citizen shall be subject to;
 - a) Declaration of his residence and not to leave the area without authorization of the Immigration Department.
 - b) Regular appearance before the Immigration Department according to the legal terms applicable
2. On failure to comply with any of the above mentioned conditions, the foreign citizen shall be detained, and the expulsion order shall immediately be executed.

ARTICLE 35

(Urgent Expulsion)

1. The expulsion process is of urgent nature.
2. Whatever is not in this law, the laws in the crime summary process shall be effected.

ARTICLE 36

(Limitations of expulsion measures)

Expulsion shall not be executed if a foreign citizen is to be sent to a country where he will be prosecuted on political, religious, racial or ethnic grounds.

ARTICLE 37

(Treatment of Refugees)

In the case of officially recognized refugees the competent law according to Accords or International Conventions to which Mozambique is a member shall be applied.

CHAPTER VI

CONTROL

ARTICLE 38

(Checking in aircrafts and vessels)

1. The Immigration Department shall check commercial or recreational vessels in aircrafts at airports and ports on their arrival in, or departure from, the country.
2. To carry out the duties mentioned above, the respective authorities shall provide transport and equipment to guarantee efficient checking.

ARTICLE 39
(Facilitation of work and arrest)

Captains and pilots of aircrafts and vessels coming into the country, companies, travel agencies and other facilitating organizations are obliged to facilitate co-operate in any searches deemed necessary by Immigration Officials in order to capture illegal immigrants or persons who have committed a crime.

ARTICLE 40
(Freedom to access)

Free access shall be given to Immigration Officers in order for them to carry out searches or other investigations in private houses, places of entertainment, recreational associations, ports, airports and railway stations and on trains, ships, aircrafts or in any other location where such activities are deemed necessary.

CHAPTER VII
(Infringements and sanctions)

SECTION 1

ARTICLE 41
(Infringements and sanctions)

Illegal immigration and falsification of documents are penalized according to the law in force;

ARTICLE 42
(Absence of visa and accommodation bulletin)

1. A foreign citizen who exceeds the stay specified in his or her visa is subject to the payment of a daily fine of 1.000.000,00 MZM without affecting whatever other payments he is obliged to make while living during the authorized period.
2. If the transgression referred to above is noted when leaving the National Territory the fine shall be increased by 50%.
3. A violation of article 25 of this law has a penalty of 500.000,00 MZM, subject to additional increments.

ARTICLE 43
(Absence of authorization of residence)

1. Infringement of article 21 is penalized by a daily payment of 1.000.000,00 MZM, subject to additional increments.
2. A foreign citizen whose authorization of residence expires can renew it by paying a daily fine of 100.000,00 MZM with additional increments

ARTICLE 44
(Change of residence without informing the authorities)

Change of residence without informing the authorities is subject to a monthly fine of 1.000.000,00 MZM

ARTICLE 45
(Costs responsibility in case of deportation)

According to this law, public or private companies and commercial establishments who have employed a foreign citizen who is to be deported shall cover the deportation costs.

ARTICLE 46
(Illegal or foreign citizens without documents)

Companies, travel agencies and individuals who bring illegal or foreign citizens without documents into the country are responsible for all their expenses including the costs of their return with an additional fine of 6.000.000,00 MZM in case of landing.

ARTICLE 47
(Failure to inform the authorities about alteration of identification details)

Failure to comply with the requirements of article 24 hereof shall be penalized by a fine of 100.000,00 MZM

ARTICLE 48
(Relative competence in relation to respective infringements process)

1. The Immigration Department has the authority for the application of fines in relation to the infringements in this law.
2. In case of any infringement, the competent authorities shall issue a notification which shall remain valid until otherwise proved to the contrary.
3. The law- breaker shall be given a notice to pay the fine within five days.
4. When the law-breaker does not pay the fine voluntarily within the stipulated period, the case shall be handed over to a competent tribunal court according to the law in force.

ARTICLE 49
(Destiny and updating of fines)

1. The money collected from the fines above shall be channeled to public treasury.
2. The updating of fines shall be done by the government.

CHAPTER VIII

(final and transitory dispositions)

ARTICLE 50

(Preparatory Instructions)

1. Preparatory instructions related to infringements committed in respect to the laws of entry, departure and transit at border posts, stay and migration of illegal foreign citizens are under the authority of the Immigration Department.
2. In administrative posts and locations where no Immigration authorities exist, the Police of the Republic of Mozambique shall carry out the duties mentioned above; if there is no Police this shall be done by the competent administrative authorities.

ARTICLE 51

A fee is chargeable by the residence authorization concession on travel documents as well as on fines mentioned in this law in conformity with approved prices.

ARTICLE 52

(Documents issued to foreign citizens)

1. A foreign citizen can be given a passport or similar documents under the following situations;
 - a) a foreign citizen resident in the country when he loses his nationality.
 - b) when for some exceptional reasons it is advisable for its issuance.
2. The emission shall obey the laws in force for similar documents.

ARTICLE 53

(Travel documents for refugees)

Refugees referred to in paragraph 11 of the annex of the 1951 Geneva Convention as well as those in the OAU Convention may be given a travel document.

ARTICLE 54

(Types and validity of refugee travel documents)

1. The refugee travel document can be individual or family size.
2. The individual travel document shall be given to any foreign citizen over the age of 16 years.
3. The family travel document may be used by either spouse and covers any children under the age of 16 years.

4. The family travel document for refugees is valid for two years and can be used for an unlimited number of entries.
5. The validity of travel document terminates when refugees acquire whichever of the conditions in paragraphs 1 and 4 of section C article 1 of the 1951 Geneva Convention apply.

ARTICLE 55
(Competence for the issuing of a passport or travel documents)

The Immigration Department has the authority to issue passports or foreign citizens travel documents for refugees.

ARTICLE 56
(Special visa conditions)

According to this law, the Ministers Council shall define conditions to which a visa can be granted exceptionally at a border post.

ARTICLE 57
(Revocation)

All legislation contrary to this law is revoked.

ARTICLE 58
(Competence to the making of regulations)

The Ministers Council has the authority for the making of the regulations in this law.

Approved by the National Assembly, Marcelino dos Santos.

Promulgated on 28th December 1993

Published

The President of the Republic, JOAQUIM ALBERTO CHISSANO