

Adrian Frey

Land Law Legislation

MOZLEGAL §



DINAGECA

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NAKOSSO
Centro de Negócios de Niassa Business Centre

PREFACE

The new Land Law (Law 19/97) was passed by Parliament in July 1997. By the end of 1999, the legal instruments required to implement it were passed, namely, the Land Law Regulations for rural areas and the Technical Annexe thereto, containing rules on the delimitation of community lands and the rules governing fees payable by land users.

This collection of legislation covers the key aspects of land occupation and use. Various situations are regulated, including, among others, the acquisition of the right of land use and benefit by customary occupancy in good faith and by official channels, the rules governing protection zones, the relationship between the public and the Cadastre Services, and the rights and duties of titleholders.

The legislative package is a step forward in the process of democratisation and peace consolidation, with a view to achieving sustainable development in Mozambique. The recognition of rights acquired through systems of customary occupancy and the role of communities in the management of land and natural resources and conflict resolution are seen, internationally, as very innovative features of our legislation that can facilitate equitable development based on relations that are mutually beneficial to local communities and to new investors, whether these are national or foreign.

We have a clear and secure legal framework, which can adapt to the diverse economic contexts of hundreds of private projects that are currently underway in the country. These projects bring new opportunities to the entire population – employment, new markets, improved infrastructure, partnerships and other forms of involvement in the development process.

Considering the importance of this legislation to all Mozambicans and to foreigners interested in investing in Mozambique, the Government thought that it was essential to make this instrument more accessible to foreign investors. With the support of the law firm José Caldeira & Associados, the Niassa Business Centre – Nakosso, the National Directorate of Geography and Cadastre (DINAGECA), the Investment Promotion Centre (CPI) and the Confederation of Business Associations of Mozambique (CTA), the legislative package was translated into English.

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We now launch this publication of the Land Law, the Regulations and the Technical Annexe, together with the English translation thereof, in the democratic spirit that characterises the policies of the Government of Mozambique, and with a focus on central social and economic objectives – economic growth and the reduction of absolute poverty.

We hope that this publication will improve the understanding of this legislation, which is so important to the Mozambican people, and in this way stimulate more and more dynamic and productive development by foreign investors, so that their projects may grow and bring benefits to our society.

MINISTER OF AGRICULTURE AND RURAL DEVELOPMENT

Hélder Muteia

Land Law

Law nº 19/97 of 1 October

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ASSEMBLY OF THE REPUBLIC

Law No. 19/ 97 of 1 October

As a common mean for the creation of wealth and social well-being, the use and benefit of the land is the right of all Mozambican people.

The challenge that the country faces for its development, as well as the experience in the application of the Land Law No 6/79, of 3 July, demonstrate the need for its revision in order to bring it into conformity with the new political, economic and social circumstances and to ensure access and security of land tenure not only for Mozambican peasants but also for national and foreign investors.

It is therefore intended to encourage the use and benefit of land so that this resource, the most important resource that the country has, is valued and contributes to the development of the national economy.

In these terms, and pursuant to Article 135.1 of the Constitution, the Assembly of the Republic determines:

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:
- a) Know the economic and legal status of the land;
 - b) 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.
 - c) Organise efficiently land utilisation, protection and conservation.
 - d) 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

COUNCIL OF MINISTERS

Decree 66/ 98
8th of December

The Regulations of the Land Law were approved by Decree 16/ 87 of 15 July.

The application of the Regulations revealed that several of its provisions needed to be amended in order to simplify the administrative procedures and, thus, facilitate access to land by national and foreign investors.

The revision of the Land Law under Law 19/97 of 1 October introduced several innovations that need to be regulated, in particular, the recognition of rights acquired by occupancy by local communities and Mozambican individuals who, in good faith, occupy land for at least ten years.

In these terms and under the authority provided by article 33 of Law 19/97 of 1 October, the Council of Ministers decrees:

ARTICLE 1

The Regulations of the Land Law, which are attached to this decree and are an integral part hereof, are hereby approved.

ARTICLE 2

Decree 16/ 87 of 15 July, is hereby repealed.

Approved by the Council of Ministers.
Let it be published.

THE PRIME MINISTER

Pascoal Manuel Mocumbi.

LAND LAW REGULATIONS

Decree 66/ 98
8th of December

CHAPTER I

General Provisions

ARTICLE 1

Definitions

For the purposes of these Regulations, the following terms shall have the meanings indicated below:

- 1. Improvement:* all expenses incurred in the preservation or improvement of land. Improvements are classified as necessary, useful or as amenities. Necessary improvements are those whose purpose is to prevent loss, destruction or deterioration of the land. Useful improvements are those that are not essential to the preservation of the land, but increase its value. Amenities are improvements that are neither essential for the preservation of the land nor increase its value, but are purely for the enjoyment of the improver.
- 2. Structure:* building, wall, canal or other work of construction.
- 3. Building:* a structure that necessarily consists of walls that demarcate the land and air space on all sides, with a cover on top (roof or terrace), and normally contains internal dividing walls and may have one or more storeys.
- 4. Rural tenement (Prédio Rústico):* a demarcated portion of land and the structures on it that have no independent economic use or value, where the source of income depends principally on the land itself, while the structures are there to support the exploitation of the land.
- 5. Urban tenement (Prédio Urbano):* a building incorporated on the land, with the grounds that serve it, where the source of income depends principally on the existing structures and not on the land itself.
- 6. Register:* summary of the content of legal documents that define the right to use and benefit from the land, organised by parcel number and

consisting of text and a cadastral map, which is part of the National Land Cadastre.

7. *Cadastre Services*: the Public Service responsible for implementing and updating the National Land Cadastre at central and local levels.

ARTICLE 2

Scope

These Regulations apply to the areas outside those that are under the jurisdiction of Municipalities with Municipal Cadastre Services, with the exception of article 45, which applies to the entire national territory.

ARTICLE 3

National Land Cadastre

1. The National Land Cadastre shall operate in co-ordination with the Cadastre Services.

2. The Cadastre Services shall organise in each Province a local division of the National Land Cadastre.

3. The entities that supervise the areas of soil, forestry and wildlife, water, mines, tourism and other areas of public domain, shall submit the data that is necessary to the organisation and updating of the National Land Cadastre, in accordance with the rules prescribed by the Cadastre Services.

CHAPTER II

Public domain

ARTICLE 4

Total protection zones

Specific regulations shall define the rules applicable to areas intended for nature conservation or preservation activities and State defence and security.

ARTICLE 5

Partial protection zones created by law

The following partial protection zones are created by the effect of the law:

- a) the land strip of up to 50 metres along the edges of navigable rivers and lakes, measured from the high water-mark of such waters;
- b) the land strip of up to 100 meters surrounding water sources;
- c) the strip of maritime coastline including that around islands, bays and estuaries, measured from the high water-mark to a point 100 metres inland;
- d) the land strip of up to 250 meters along the edge of dams and reservoirs
- e) the two kilometre strip of land along the terrestrial border;

ARTICLE 6

Installation of public infrastructure

1. When the Council of Ministers or competent authorities under the legislation in force approve projects to construct the public infrastructures listed below, the partial protection zones that accompany them are automatically created:

- a) secondary and tertiary roads and the 15 metre strip of land alongside them;
- b) primary roads and the 30 metre strip of land alongside them;
- c) motorways and four lane highways and the 50 metre strip of land alongside them;
- d) aerial, surface, underground and underwater installations and conduits for electricity, telecommunications, petroleum, gas and water and the 50 metre strip of land alongside them;
- e) railways and railway stations and the 50 metre strip of land alongside them;
- f) airports and aerodromes and the 100 metre strip of land surrounding them;
- g) military installations and other installations for State defence and security and the 100 metre strip of land surrounding them;
- h) dams and the 250 metre strip of land surrounding the reservoirs.

2. A technical procedure in respect of demarcation and the documents referred to in lines d) to f) of paragraph 1 of article 24 hereof shall be organised for the installation of public infrastructure.

ARTICLE 7

Restrictions

1. No right of land use and benefit may be acquired in partial protection zones.

2. Excluded from the foregoing are national individual persons in urban settlements located in border areas.

ARTICLE 8

Exercise of activities in partial protection zones

1. The exercise of any activity within a partial protection zone shall be licensed by the entity responsible under the terms of the legislation in force.

2. The construction of any type of structure in the areas referred to lines a) to d) of article 5 of these Regulations shall be licensed by the entities responsible for the management of inland and maritime waters.

CHAPTER III

Right of land use and benefit

ARTICLE 9

*Acquisition of the right of land use and benefit
by occupancy by local communities*

1. Local communities who occupy land according to customary practices shall acquire the right of land use and benefit.

2. Excluded from the foregoing are those cases in which such occupancy takes place in areas that are subject to legal reservation for any purpose or occurs in partial protection zones.

3. Areas over which a right of land use and benefit has been acquired by occupancy according to customary practices may, when necessary or at the request of the local communities, be identified and recorded in the National Land Cadastre, in accordance with requirements to be defined in a Technical Annex.

ARTICLE 10

*Acquisition of the right of land use and benefit by occupancy
in good faith by National individuals*

1. National, individual persons who, in good faith, have used a land area for at least ten years shall acquire the right of land use and benefit.

2. Excluded from the foregoing are those cases in which such occupancy occurs in areas that are subject to a legal reservation for any purpose or occurs in partial protection zones.

3. Areas over which a right of land use and benefit has been acquired by occupancy in good faith may, when necessary or at the request of the interested parties, be identified and recorded in the National Land Cadastre, in accordance with requirements to be defined in a Technical Annex.

ARTICLE 11

*Acquisition of the right of land use and benefit by
authorisation of an application*

Definitive authorisation of an application to acquire a right of land use and benefit submitted by national or foreign, individual or corporate persons is granted under the provisions of article 31 of these Regulations.

ARTICLE 12

Joint title holders

Joint holding of the right of land use and benefit by national, individual or corporate persons or by local communities is governed by the rules on co-ownership property established in articles 1403 et seq. of the Civil Code.

ARTICLE 13

Rights of title holders

1. Holders of the right of land use and benefit, whether acquired by occupancy or by authorisation of an application, shall have the following rights:

- a) to defend their rights, in accordance with the law, against any encroachment by another person;
- b) to have access to their parcel of land and to public water resources through neighbouring parcels, and to create the servitudes necessary for this purpose.

2. Applicants or holders of the right of land use and benefit may submit their title or provisional authorisation certificate to credit institutions in the context of loan applications.

ARTICLE 14*Duties of title holders*

Holders of the right of land use and benefit, whether acquired by occupancy or by authorisation of an application, shall have the following duties:

- a) to use the land with respect for the principles defined in the Constitution and other legislation in force and, in the case of economic activities, in accordance with the exploitation plan and in accordance with the provisions of the legislation that governs the carrying out of the activity in question;
- b) to allow access through their parcel of land to neighbours who do not have access to the public road or public water resources, and to create the servitudes necessary for this purpose;
- c) to respect the servitudes that have been created and registered according to paragraph 2 of article 17 of these Regulations and the rights of access and public use connected therewith;
- d) to allow the execution of operations and/or the installation of accessories and equipment conducted under prospecting and reconnaissance mining licenses, mining concessions or mining certificates, against just compensation;
- e) to maintain boundary, triangulation, cadastral and other markers located in the respective area which serve as points of reference or support;
- f) to collaborate with the Cadastre Services, sworn surveyors and divisional supervision officers.

ARTICLE 15*Transactions in respect of rural tenements*

1. The partitioning of community areas for the purpose of issuing individualised titles to individual members of such communities shall not be exempt from the consultation process and shall not affect areas of common use.
2. The purchase and sale of infrastructure, structures and improvements located on rural tenements does not imply the automatic transfer of the right of land use and benefit, which is subject to approval by the same entity that authorised the application. An application for transfer shall be submitted beforehand to the cadastre services, together with proof of payment of annual fees and proof of fulfilment of the exploitation plan, where applicable.

3. The public deed of sale shall be executed after the certificate of authorisation of the transfer, issued by the Cadastre Services, is presented.

4. Contracts for the transfer of the land exploitation operation are likewise subject to prior approval by the entity that authorised the application for acquisition or recognition of the right of land use and benefit. In the case of local communities, such contracts are also subject to consent by the community members.

5. Contracts for the transfer of the land exploitation operation shall be valid only when executed by public deed.

ARTICLE 16*Transfer of urban tenements*

1. The transfer of an urban tenement owned by an individual or corporate person does not require prior authorisation by the State.
2. When an urban tenement is transferred, the right of land use and benefit is transferred along with it.

ARTICLE 17*Public interest servitudes*

1. If the right of land use and benefit over a plot of land is restricted owing to the need to use part of the plot for the installation of air, surface or subterranean conduits for electricity, telecommunications, petroleum, gas, water or others, then the public or private entity shall compensate the title holder with an amount that represents the actual loss arising from the loss of use of the affected part, and a servitude shall be created over such part of the plot and shall be registered in the National Land Cadastre and noted on the respective land title.
2. Servitudes in respect of public and community ways of access and access for livestock, which have been established by customary practice, shall be registered in the National Land Cadastre.

ARTICLE 18*Term*

1. The right of land use and benefit acquired for the realisation of an investment project, approved in accordance with the legislation applicable

to national and foreign investments, shall have the term corresponding to the term established in the Investment Authorisation. Such term shall not exceed 50 years and may be renewed in accordance with the provisions of the Land Law and the terms for the renewal of the Authorisation.

2. The titleholder shall, twelve months before the end of the term fixed in the title, request that the Cadastre Services renew the period for exercising the right. In the request for renewal, the titleholder shall demonstrate that the economic activity for which the application was initially made is still being carried out.

3. In those cases where the renewal application is submitted to the Cadastre Services outside the time limit indicated in the preceding paragraph, the titleholder shall be subject to the payment of a fine under the terms established in these regulations.

ARTICLE 19

Termination

1. The right of land use and benefit acquired for the exercise of economic activities shall terminate in the event of failure to fulfil the exploitation plan without justification, which shall be determined by the entity that supervises the economic activity in question.

2. When the land is not intended for the exercise of economic activities, the right of land use and benefit shall terminate in the event of failure to fulfil the proposed undertaking without justification, which shall be determined by the Cadastre Services.

3. The procedure for termination of the right of land use and benefit in the public interest shall follow the procedures for expropriation and shall be preceded by the payment of fair indemnification and/or compensation.

4. The declaration of termination of the right of land use and benefit shall be made by the entity that authorised the application for issuance of the title or recognised the right of land use and benefit acquired by occupancy.

ARTICLE 20

Registration

1. The Cadastre Services shall register:

- a) information regarding the identification of land to which the right of land use and benefit acquired by occupancy by local communities or by national, individual persons pertains;
- b) the provisional authorisation;
- c) the revocation of the provisional authorisation;
- d) the title;
- e) the servitudes referred to in article 17 of these Regulations;
- f) the amount of fees payable and any alterations.

2. The title holders of the rights of land use and benefit shall request the Cadastre Services to register:

- a) the sale, purchase and encumbering of infrastructure, structures and improvements located on rural tenements;
- b) the sale, purchase and encumbering of urban tenements;
- c) the servitudes referred to articles 13 and 14 of these Regulations;
- d) contracts for the transfer of land exploitation operations, entered into for the total or partial exploitation of urban or rural tenements;
- e) other acts or events provided for under the applicable legislation.

3. The request for registration shall be submitted, within one year of the date on which the act subject to registration occurred.

4. In the case of transfer by inheritance of the right of land use and benefit acquired by an application for issuance of a title, the heirs of the deceased shall submit a request for Registration to the Cadastre Services within one year after their entitlement or the respective court sentence, equipped with documents that prove their eligibility.

5. If an application for registration is submitted to the Cadastre Services outside the time limit indicated in paragraphs 3 and 4 of this article, a fine shall be payable under the terms established in these regulations.

ARTICLE 21

Proof

1. The right of land use and benefit may be proved by:

- a) A certified extract of the Register;

- b) testimonial evidence submitted by someone who has knowledge of the acquisition of the right by occupancy;
- c) expert evidence and other methods permitted by law.

2. In the case of a claim to the right of land use and benefit by two parties, where both parties present testimonial evidence, the party who demonstrates the earlier acquisition shall prevail, except where the [subsequent] acquisition was in good faith and endured for at least ten years.

CHAPTER IV

Procedures

ARTICLE 22

Public Assistance

The Cadastre Services shall provide interested parties with information and clarification regarding:

- a) applicable legislation;
- b) the documentation required to prepare an application;
- c) the costs and applicable fees for an application process;
- d) the requirements of the demarcation process;
- e) the benefits, impediments or restrictions to which the interested parties may be subject or entitled;
- f) the procedures for appeals and complaints.

ARTICLE 23

Configuration of the land plot

1. The identification of parcels of land shall be standardised in such a way as to facilitate the management of information regarding such parcels.
2. Parcels shall have, whenever possible, a regular configuration. The Cadastre Services shall have the authority to order the alteration of the configuration, before demarcation, where this standard can be applied.
3. The border of land abutting a partial protection zone may not exceed one third of the normal to that boarder.
4. Once the land plot has been demarcated, it cannot be divided where such division would result in damage to its economic utility.

ARTICLE 24

Procedure in respect of the right of land use and benefit acquired under an authorisation

1. An application for the right of land use and benefit acquired under an authorisation shall contain:
 - a) in the case of an individual person, the identification document of the applicant and, in the case of a corporate person, the articles of association;
 - b) a sketch of the location of the land;
 - c) the descriptive report;
 - d) an indication of the nature and dimension of the undertaking that the applicant proposes to carry out;
 - e) the opinion of the District Administrator, after consultations with the local community;
 - f) a public notice and proof that such notice has been displayed in the headquarters of the district in question and at the location itself, during a period of thirty days;
 - g) receipt as proof of deposit of the payment of the provisional authorisation fee.
2. Where the land is intended for the exercise of economic activities, the application shall contain, in addition to the documents mentioned in the preceding paragraph, an exploitation plan and a technical opinion in respect thereof issued by the Services that supervise the economic activity in question.
3. All of the documents referred to in paragraphs 1 and 2 of this article shall be submitted in triplicate, with the exception of the receipts issued as proof of deposit of the payment of the provisional authorisation fee. These receipts shall be submitted in quadruplicate.

ARTICLE 25

Private investment projects

1. For the purposes of private investment projects that involve the acquisition of the right of land use and benefit, the land shall be subject to prior identification, which shall involve the Cadastre Services, the local administrative authorities and the local communities and shall be documented in the sketch and descriptive report, in accordance with the provisions of article 24 of these Regulations.

2. Land applications intended for the construction of applicants' own homes are excluded from the foregoing, under the terms of the investment legislation and these Regulations.

ARTICLE 26

Technical opinions

1. The Services that supervise the economic activities for which land is requested shall be responsible for issuing a technical opinion in respect of the exploitation plan.

2. If the information containing the technical opinion is not issued within a period of forty-five days after the request therefor by the Cadastre Services, the application process shall be submitted to the Provincial Governor, with an indication about this fact.

3. Where the Provincial Governor does not have the authority to authorise the application, the Cadastre Services shall request additional information from the central institutions that supervise the activity that the applicant proposes to carry out.

4. The requirements in respect of the submission and alteration of the exploitation plan shall be established by the Services that supervise the area of economic activity in question.

ARTICLE 27

Opinion of the District Administration and consultation with the local communities

1. The Cadastre Services shall send a copy of the application to the Administrator of the district in question, for the purposes of publication of a Notice about the application and for his opinion. The Cadastre Services shall provide such Administrator with all the technical assistance necessary to enable him to gather information about the land area and the neighbouring lands.

2. A joint operation shall be carried out, involving the Cadastre Services, the District Administrator or his representative, and the local communities. The outcome of this work shall be written up and signed by a minimum of three and a maximum of nine representatives of the local community, as well as by the owners or occupiers of neighbouring land.

3. The opinion of the District Administrator shall refer to the existence or otherwise of rights of land use and benefit acquired by occupancy in respect of the area applied for. In the event that the area applied for is subject to other rights, the opinion shall contain the terms under which the partnership between the applicant and the holders of the right of land use and benefit acquired by occupancy shall be governed.

ARTICLE 28

Provisional authorisation

1. Once the application process is completed, the Cadastre Services shall submit the proposal to the Governor of the Province for decision, in cases within the competency of the Governor.

2. In all other cases, after review by the Governor of the Province, the application process shall be sent to the Central Cadastre Services, who shall submit it to the competent authority for decision.

3. In both cases, the authorisation issued shall be provisional. In the case of Mozambican citizens, the authorisation shall be valid for a period of five years and for foreign citizens the authorisation shall be valid for two years.

ARTICLE 29

Content of the provisional authorisation

The provisional authorisation shall contain the following:

- a) identification of the entity that authorised the application and the date of the authorisation order;
- b) the authorisation number;
- c) identification of the applicant;
- d) sketch, area, location and identification number of the parcel in the cadastral register;
- e) term of the provisional authorisation;
- f) type or types of use for which the authorisation was granted;
- g) fees payable;
- h) date and place of issuance;
- i) signature under seal of the person in charge of the Services that issue the authorisation.

ARTICLE 30*Demarcation*

1. Once the provisional authorisation has been issued, in the case of an application in respect of a right of land use and benefit acquired under an authorisation, the Cadastre Services shall notify the applicant of the decision taken and of the need to demarcate the land.
2. After notification, the applicant shall proceed with the demarcation within a period of one year, either through official channels, by means of the Cadastre Services, or by requesting approval of a contract entered into with a sworn surveyor.
3. If the applicant has not submitted the respective technical file and the Cadastre Services have not received acceptable justification for this failure by the end of the one-year time limit, then the Cadastre Services shall notify the applicant of the imminent cancellation of his provisional authorisation.
4. The applicant may request that, instead of cancellation, the time limit be extended for a further period of ninety days. This second time limit shall not be extended further.
5. The requirements for demarcation shall be defined in the Technical Annex.

ARTICLE 31*Transformation of a Provisional Authorisation
into a Definitive Authorisation*

Upon expiry of the term of the provisional authorisation or, if the interested party so requests, even before the end of this term, an inspection shall be carried out to verify the fulfilment of the proposed undertaking or exploitation plan in accordance with the approved schedule. Once the fulfilment of the undertaking or the exploitation plan has been ascertained, the definitive authorisation of the use and benefit of the land shall be given and the respective title shall be issued.

ARTICLE 32*Revocation of Provisional Authorisation*

1. If it is ascertained that the exploitation plan, in cases where the right of land use and benefit is acquired for economic activities, or the proposed undertaking, in all other cases, has, without justification, not been fulfilled by the end of the term of provisional authorisation, then the Cadastre Services shall initiate revocation procedures.
2. The revocation of the provisional authorisation gives no right to compensation for any investments that have been made but are not removable.
3. Upon the order of revocation of the provisional authorisation, the Cadastre Services shall cancel the application process.

ARTICLE 33*Reduction of the area of exploitation*

At the end of the provisional authorisation, the interested party may request that the area initially authorised be reduced in size.

ARTICLE 34*Procedures in respect of the right of land use and benefit
acquired by occupancy in good faith*

1. The application process in respect of the right of land use and benefit acquired by individual national persons by occupancy in good faith shall include the technical demarcation file and the documents referred to in paragraphs 1 and 2 of article 24, as applicable.
2. The sketch, descriptive report and provisional authorisation are dispensed with.

ARTICLE 35*Procedure in respect of the right of land use and benefit
acquired by occupancy by local communities*

The application process for the right of land use and benefit acquired local communities shall contain:

- a) the name of the community;
- b) the technical file in respect of demarcation;

- c) the opinion of the District Administrator;
- d) the decision of the Governor of the Province;
- e) a receipt as proof of deposit of the payment of the costs of the application.

ARTICLE 36

Contents of the title

1. The title shall contain the following items:
 - a) identification of the entity that authorised the application for issuance of the title and the date of the authorisation order;
 - b) the title number;
 - c) identification of the title holder;
 - d) the area and the geometric definition of the area, with the respective co-ordinates, location, identification number of the parcel in the cadastral register, as well as the identification numbers of the adjacent parcels;
 - e) time period limitations to which the right of land use and benefit is subject;
 - f) type or types of use for which the right of land use and benefit was acquired;
 - g) description of existing improvements;
 - h) fees payable;
 - i) date and place of issuance;
 - j) signature under seal of the person in charge of the Services that issue the title.

2. The transfer of infrastructures, structures and improvements on rural tenements, the transfer of urban tenements, joint title holding, renewals, charges and encumbrances and other legally executed transactions shall be noted on the title.

CHAPTER V

Supervision

ARTICLE 37

Supervision

1. The Cadastre Services shall be in charge of supervising compliance with the provisions of these Regulations, investigate infractions of the rules and serve the respective notices.

2. The preceding provision does not exclude supervision by entities whose authority is defined in sectoral legislation.

ARTICLE 38

Notice of infraction

1. The notice of an infraction is issued in accordance with the following:
 - a) description of the facts that constitute the infraction, the damages incurred and the presumed offenders;
 - b) indication of the date, time, place and circumstances under which the infraction was committed or ascertained;
 - c) identification and signature of the agent(s) who investigated the infraction as well as two witnesses who are able to testify to the facts that constitute the infraction.

ARTICLE 39

Infractions and penalties

1. The destruction or dislocation of boundary, triangulation, cadastral and other markers which serve as points of reference or support will result in a fine equivalent to double the replacement costs.
2. Failure to comply with the time limits for registration established in these Regulations will result in a fine equivalent to the registration fee multiplied by the number of years, or any fraction thereof, by which the time limit was exceeded.
3. Delay in the submission of an application for renewal of the term will result in a fine equivalent to the renewal fee multiplied by the number of years, or any fraction thereof, by which the submission was delayed.
4. Failure to pay the annual fee within the time limit established in article 42 of these Regulations will result in a fine equivalent to one twelfth of the annual fee for each month of delay.
5. Failure to pay the fine within fifteen days after notice thereof to the offender will result in the referral of the notice of infraction and other records to the court of Fiscal Executions for enforced payment.
6. In the case of an application process for the right of land use and benefit acquired pursuant to an authorisation, the failure to carry out

the demarcation under the provisions of article 30 of these Regulations will result in the cancellation of the provisional authorisation and the application.

7. The decision of the Cadastre Services to apply the measure referred to in the preceding paragraph shall require confirmation by the entity that authorised the application.

ARTICLE 40

Appeals

Hierarchical and/or contentious appeals are allowed, under the terms of the law, from the decisions referred to in the preceding article.

CHAPTER VI

Fees

ARTICLE 41

Fees

1. Authorisation fees and annual fees shall be payable by the applicants and holders of the right of land use and benefit, in accordance with Schedule 1 annexed hereto.

2. Adjustments to annual fees, based on the location and the size of the land plots and the purpose for which they are used, shall be calculated by applying the indexes in accordance with Schedule 2, annexed to these Regulations.

3. Individual, national persons shall enjoy a reduction in annual fees, based on the application of the indexes set out in Schedule 3, annexed to these Regulations.

4. The Minister of Planning and Finance and the Minister of Agriculture and Fisheries shall periodically update the authorisation fees and annual fees.

ARTICLE 42

Payment

1. The provisional authorisation fee shall be payable at the beginning of the application process.

2. The definitive authorisation fee shall be payable within three months after notification to the applicant of the issuance of the definitive authorisation.

3. Annual fees become payable upon notification to the applicant of the issuance of the provisional authorisation.

4. Payment of annual fees shall be made either during the first three months of the year or in two instalments, the first of which shall be paid by the end of March and the second by the end June.

5. The fees shall be paid to the Cadastre Services or, when they delegate their authority, to the local office of the Ministry of Agriculture and Fisheries.

6. The Cadastre Services or the local office of the Ministry of Agriculture and Fisheries shall pay fees collected pursuant to the preceding paragraph over to the Finance Department of the respective tax area, during the month following the month in which the fees were collected, using form B, for the purposes of accounting and delivery to the State coffers.

ARTICLE 43

Allocation of revenue

1. Sixty per cent of the revenue from the collection of annual fees shall be allocated to the Cadastre Services.

2. The way in which the revenue referred to in the preceding paragraph is allocated will be determined by a joint ministerial diploma from the Ministry of Planning and Finance and the Ministry of Agriculture and Fisheries.

3. The revenue allocated under the terms of paragraph 2 of this article shall be uplifted at the Public Accounts division, using form 3 for treasury operations.

ARTICLE 44*Temporary exemption from fees*

1. A titleholder of the right of land use and benefit who is unable to fulfil the terms of the exploitation plan for reasons that are beyond his control and responsibility, may apply to the entity that authorised his application for exemption from payment of annual fees for a period of three years.

2. The Cadastre Services shall carry out an inspection and, based on the conclusions of this inspection, may propose that an exemption be authorised or that the land area initially authorised be reduced.

CHAPTER VII*Final provisions***ARTICLE 45***Cancellation of prior rights of land use and benefit*

1. The possibility of validating rights of land use and benefit under article 79 of the Land Law Regulations, approved by Decree 16/ 87 of 15 July, is hereby cancelled.

2. No further formalities are required for the cancellation of the right of land use and benefit pursuant to the preceding paragraph or the cancellation of the respective process file.

ARTICLE 46*Applications in progress*

1. Applications in progress for the acquisition of the right of land use and benefit pursuant to an authorisation shall be subject to the provisions of Law 19/97 and this Regulation.

2. Applicants shall, within a period of one year after the date of entry into force of this Regulation, confirm or reformulate their initial application at the Cadastre Services, under pain of cancellation of their application process.

ARTICLE 47*Technical Annex*

The Minister of Agriculture and Fisheries shall approve the Technical Annex referred to in paragraph 3 of article 9 and article 10 and in article 30 of these Regulations.

Annex referred to in article 41**SCHEDULE 1***Fees*

Provisional authorisation:	600.000,00 MT
Definitive authorisation:	1/2 of the amount of the provisional authorisation fee
Annual fee:	30.000,00 MT/ ha
a) Cattle farming	2.000,00 MT/ ha
b) Repopulation of wildlife by means of a game farm	2.000,00 MT/ ha
c) Permanent crops	2.000,00 MT/ ha

NB 1: The index based on the size of the area contained in schedule 2 annexed to the Land Law Regulations does not apply to these activities.

NB 2: The index based on location in Maputo Province contained in schedule 2 annexed to the Land Law Regulations does not apply to the activity in paragraph a).

d) Agriculture	15.000,00 MT/ ha
e) The annual fee for land parcels of up to one hectare used for the purposes of tourism, holiday homes and commerce, located in the three-kilometre strip of land abutting a zone that belongs to the maritime coastline is	200.000,00 MT/ ha

NB 3: All other indexes for adjustments to annual fees as set out in schedules 2 and 3 annexed to the Land Law Regulations are maintained in the case of land used for the activities referred to in articles 1 to 5 of Decree 77/99 of 15 October.

NB 4: For the purposes of the index in schedule 2 annexed to the Land Law Regulations, the districts referred to in article 2 of the Organisational Statute of the Development Planning Office for the Zambeze Region, annexed to Decree 40/95 of 22 August, are considered to be priority development zones.

f) All other activities..... 30.000,00 MT/ha

SCHEDULE 2

Indexes for adjustments to the annual fee based on the location and size of land plots and the purpose for which they are used

	Index
Location: Maputo Province:.....	2.0
Land plots bordering:	
Partial protection zones:.....	1.5
Priority development zones:.....	0.5
All other zones:.....	1.0
Size: up to 100 ha.....	1.0
From 101 to 1000 ha.....	1.5
Over 1000 ha.....	2.0
Purpose for which used: charitable associations.....	0.5

SCHEDULE 3

Index applicable to annual fees payable by national, individual persons

Index applicable to annual fees payable by national, individual persons: 0.8

AUTHORISATION FEES AND ANNUAL FEES

**Decree No. 77/ 99
of 15 October**

By Decree 66/98 of 8 December, the Land Law Regulations were passed, and attached to these are schedules setting out the authorisation fees and annual fees payable by applicants and titleholders of the right of land use and benefit, together with applicable adjustments.

Taking into account the specific characteristics of certain activities, and under the authority vested in it by article 33 of Law 19/97 of 1 October, the Council of Ministers decrees:

ARTICLE 1.

The annual fee in respect of land used for the activities set out below is 2.000,00MT/ hectare:

- a) Bovine cattle breeding;
- b) Repopulation of wildlife by means of wildlife farming;
- c) Permanent crops.

ARTICLE 2.

The index relating to the size of the area, as set out in schedule 2 to the Land Law Regulations, is not applicable to the activities referred to in the preceding article.

ARTICLE 3.

The index relating to land plots located in Maputo province, as set out in schedule 2 to the Land Law Regulations, does not apply to the activity referred to in article 1(a) hereof.

ARTICLE 4.

The annual fee relating to land destined for agricultural use is 15.000,00Mt/ hectare.

ARTICLE 5.

The annual fee relating to land parcels of up to one hectare destined for the purposes of tourism, commercial housing and holiday homes, located in the three-kilometre strip of land abutting that part of the seashore which is in the public domain, is 200.000,00MT.

ARTICLE 6.

All other indexes for adjustments to annual fees as set out in schedules 2 and 3 of the Land Law Regulations remain the same in cases of land destined for the activities referred to in articles 1 to 5 of this Decree.

ARTICLE 7.

For the purposes of the application of the index in schedule 2 to the Land Law Regulations, the districts referred to in article 2 of the Organisational Statute of the Zambeze Region Planning and Development Office, attached to Decree 40/95 of 22 August, are considered priority development zones.

Approved by the Council of Ministers
Let it be published.

THE PRIME MINISTER

Pascoal Manuel Mocumbi

REPUBLIC OF MOZAMBIQUE

MINISTRY OF AGRICULTURE AND FISHERIES

Office of the Minister

In compliance with the regulations of the Land Law which was approved by decree No. 66/98, of 8 December, it has become necessary to define the requirements for the delimitation of areas occupied by local communities and by national individual persons occupying land in good faith, as well as land demarcation within the context of issuing titles relating to the right of land use and benefit.

Under these terms, within the scope of the authority conferred by article 47 of the Regulations to the Land Law, the Minister of Agriculture and Fisheries determines:

Single article: The Technical Annex to the Regulations of the Land Law is hereby approved and annexed to this Ministerial Diploma and forms an integral part hereof.

Ministry of Agriculture and Fisheries, at Maputo, on 7 of December of 1999.

THE MINISTER OF AGRICULTURE AND FISHERIES

Carlos A gostinho do Rosário

TECHNICAL ANNEX

To the Land Law Regulations

CHAPTER I

General Provisions

ARTICLE 1

Scope

This Technical Annex shall apply to:

1. The delimitation of areas which are occupied by local communities according to customary practices;
2. The delimitation of areas which are occupied in good faith for at least ten years by national individual persons;
3. The demarcation, pursuant to an application for title, of:
 - a) Areas occupied by local communities according to customary practices;
 - b) Areas occupied in good faith for at least ten years by national individual persons;
 - c) Areas in respect of which an application for the acquisition of the right of land use and benefit has been made either by national or foreign individual or corporate persons, and where provisional authority has been issued.

ARTICLE 2

Definitions

For the purposes of this Technical Annex, the following shall mean:

1. *Demarcation notice*: a report describing the work executed including the information regarding technical and auxiliary staff involved, the time of execution, the technology and measuring instruments used, the topographical assistance work, the location, adjustments and compensations made, the total dimensions, the perimeter and number of markers staked. This report shall be accompanied by a declaration made either by the titleholder or by the applicant stating that he/ she will maintain the markers.

2. *Cartogram*: an approximate graphic representation regarding the location of the area, containing topological information and other details indicated on the participatory maps, which is a result of consensus being reached by the community on all the various participatory maps drawn.

3. *Delimitation*: identification of the boundaries of the areas occupied by local communities or national individual persons, who are and for at least ten years have been using the land in good faith, including the entry of the information into the National Land Cadastre.

4. *Partial Delimitation*: identification of part of the perimeter of a certain area, including only the boundaries which are in conflict or the boundaries where new economic activities and/ or new development projects and plans are to be initiated.

5. *Demarcation*: transfer to the land of information contained in the sketch and its descriptive report regarding boundaries of a parcel of land, within the scope of an application for title.

6. *Participatory Appraisal*: collection of information given by a local community regarding: (a) its history; culture and social organisation; (b) the use of the land and other natural resources and the mechanisms for its management; (c) spatial occupation; (d) population dynamics; (e) possible conflicts and the mechanisms for their resolution, for the purposes of drawing up the cartogram.

7. *Sketch*: the diagram on a conventional scale representing the configuration of a parcel of land containing drawn or written references enabling it to be located in the Cadastral Atlas including, when necessary, the geo-referencing of points and/ or boundary lines that are not visible on existing topographical maps. The sketch is always accompanied by a descriptive report.

8. *Participatory map*: a drawing designed by an interest group of the community, namely men, women, young people, elders and others, which shows in an initial and relative way, not to scale, the permanent natural or man-made landmarks used as boundaries, the identification and location of natural resources, reference points where conflicts regarding natural resources take place or any other boundaries or relevant features.

9. *Descriptive report of the sketch*: written information regarding (a) the description of the boundary points; (b) boundary lines; (c) existing servitudes.

10. *Occupancy*: form of acquisition of the right of land use and benefit by national individual persons who, in good faith, are and have been using the land for at least ten years or by local communities.

11. *Topographical plan*: drawing of a demarcated parcel of land, containing its scale, its boundaries with numbered points and other particulars for the location of boundaries, existing servitudes, dimension, number of the parcel and of neighbouring parcels and the number of the official map on a scale of 1:50 000 or 1:250 000 which covers the relevant parcel.

12. *Technical reconnaissance*: procedure carried out on the basis of the sketch and descriptive report to verify the boundaries of the parcel to be demarcated, including verification of the visibility between boundary points following the applied technology, location of the existing geodetic points, calculation of the number of markers needed and an estimate of the demarcation costs.

13. *Title*: the document issued by Cadastre Services confirming the right of land use and benefit.

ARTICLE 3

Realisation of economic activities and other undertakings

The delimitation and/or demarcation of areas occupied by local communities shall not prevent economic activities or other undertakings from being carried out, provided that consent from the communities is obtained.

ARTICLE 4

Measurements, calculations and boundaries

1. Measurements shall be carried out and co-ordinates calculated at boundary points that do not exist on topographical maps.
2. The precision of measurements and calculations shall be adjusted to the position, dimension and type of use of the area according to the rules contained in the instructions issued by Cadastre Services.
3. In the case of delimitation of areas occupied by local communities,

the requirement of measurements in the sketch shall not be less than one second, which is to say approximately thirty meters.

4. When there are no natural or man-made boundaries of a permanent nature, the direction of the boundary is ensured through other physical markers such as trees, piles of stones or concrete markers. In the case of local communities, new hedges of trees or shrubs may be planted in the presence of neighbouring communities.

CHAPTER II

Delimitation of Areas Occupied by Local Communities

ARTICLE 5

Phases of delimitation

1. The delimitation of areas occupied by local communities comprises the following:
 - a) Information and dissemination;
 - b) Participatory appraisal;
 - c) The sketch and descriptive report;
 - d) Feedback;
 - e) Entry into the National Land Cadastre
2. To ensure representativity of results and consensus regarding the delimitation, in the aforementioned phases (a) to (d) in paragraph 1 of this article, the working group that assists in the demarcation shall work with men and women and with different socio-economic and age groups within local communities.
3. The neighbours participate in the delimitation, as their participation is mandatory in drawing up the sketch and its descriptive report as well as in the Feedback.

ARTICLE 6

Execution of the delimitation

For carrying out the various phases of the delimitation, the following shall be observed:

1. The information and dissemination and participatory appraisal phases,

the preparation of the sketch and its descriptive report and the Feedback, as set out in articles 8, 10, 11 and 12 of this Technical Annex, shall be completed under the direction of an advisory working group with specific training on the procedures prescribed in this Technical Annex.

2. In the phases of preparation of the sketch and descriptive report and the Feedback as described in articles 11 and 12 of this Technical Annex, it shall be mandatory for a technician with basic knowledge of topography to participate, which technician may be an employee of the Cadastre Services or in private practice, in which case his/her relevant professional certificate shall be appended.

3. The Forms and Minutes referred to in paragraphs 2 and 3 of article 8 and paragraphs 2 and 3 of article 12 shall be signed by not less than three and not more than nine men and women from the communities, chosen at a public meeting.

4. The entry into the National Land Cadastre phase shall be completed by the Cadastre Services.

ARTICLE 7

Priorities, participation and costs

1. The delimitation of local community areas is prioritised in the following cases:

- a) Where there are conflicts regarding the use of the land and/or natural resources;
- b) In local community areas where the State and/or other investors intend to initiate new economic activities and/or development projects or plans;
- c) On request from local communities.

2. In the cases referred to in (a) and (b) of this article, partial delimitation of the areas may be carried out.

3. The local communities shall actively participate in the delimitation of areas that they occupy.

4. The costs of the delimitation shall be borne according to the following criteria:

- a) When the delimitation is effected due to the existence of conflicts, the division of costs shall be decided on by the local Public Administration;

- b) When the delimitation is effected due to new economic activities and/or development projects and plans, the investors shall bear the costs.

ARTICLE 8

Information and dissemination

1. The delimitation is initiated by the provision of information regarding:

- a) The reasons for the process;
- b) Relevant provisions of the Land Law and the Regulations thereof;
- c) Objectives and methodology of the delimitation;
- d) Advantages and implications.

2. The contents and participation in the information sessions shall be recorded in Form 1 of this Technical Annex.

3. Form 2 of this Technical Annex and the minutes of the information and dissemination sessions shall be signed by the local community representatives as well as the District Administrator or his/her representative. The minutes shall be signed in triplicate with the local community, the District Administration and the working group each retaining a copy thereof.

ARTICLE 9

Information to Cadastre Services

1. In the cases referred to in sub-paragraphs (a) and (c) of paragraph 1 of article 7 hereof the local communities shall submit Forms 1 and 2 to the Cadastre Services immediately after the information and dissemination phase.

2. In the cases referred to in subsection (b) of paragraph 1 of article 7 of this Technical Annex the submission of Forms 1 and 2 shall be done by the state and/or other investors.

ARTICLE 10

Participatory appraisal

1. Based on the information provided by the community, the community shall produce a minimum of two participatory maps, which indicate the boundaries between a local community and its neighbours.

2. When there are no natural or man-made boundaries of a permanent nature, the community shall indicate any other physical markers, such as trees or piles of stones, which indicate the boundaries of the area it occupies.

3. Based on the participatory maps the cartogram is drawn up.
4. The outcome of the participatory appraisal shall comprise a report containing information, in conformity with Form 3 of this Technical Annex, as well as the cartogram.

ARTICLE 11

Sketch and descriptive report

1. The details represented in the cartogram shall be specified and completed in the sketch and its descriptive report.
2. For the purposes of paragraph 1 of this article, field work shall be carried out involving the following:
 - a) The local community;
 - b) The working group, which shall include a technician with basic knowledge of topography and who shall have the information contained in the Cadastral Atlas
 - c) The neighbours.
3. The sketch shall contain the details already available in the Cadastral Atlas and the geo-reference points as well as servitudes identified during the participatory appraisal and described in article 17 of the Land Law Regulations.
4. The descriptive report shall be prepared in conformity with Form 4 of this Technical Annex.

ARTICLE 12

Feedback

1. Feedback is the provision of information to the local community and neighbours/ neighbouring communities
2. The Feedback is mandatory for the provision of information regarding the sketch and its descriptive report, in conformity with Form 5 of this Technical Annex.
3. The minutes of the Feedback session referred to in paragraph 2 of this article shall be signed by community representatives and by the neighbours/ neighbouring communities as well as by the District Administrator or

his/ her representative. The minutes are signed in triplicate, with the local community, the District Administration and the working group each retaining one copy.

ARTICLE 13

Entry into the National Land Cadastre

1. After completion of the phases referred to in a) and d) of paragraph 1 of article 5 of this Technical Annex, the documents set out below shall be delivered to Cadastre Services which shall organize and enumerate the cadastral process and verify that the applicable rules have been complied with in accordance with Form 6 of this Technical Annex:
 - a) Form 1 regarding information and dissemination;
 - b) Form 2 regarding the approval by the local community of the delimitation;
 - c) Form 3 regarding the participatory appraisal;
 - d) The sketch and Form 4 regarding its descriptive report
 - e) Form 5 regarding the Feedback.
2. The entry into the National Land Cadastre shall comprise of:
 - a) Projection of the sketch in the Cadastral Atlas;
 - b) Registration in the relevant book;
 - c) Filing of the cadastral process.
3. The registration shall comprise:
 - a) Reference to the projection in the Cadastral Atlas;
 - b) Number of the cadastral process;
 - c) Identification of the parcel by its number, an indication of its area and its location;
 - d) Name of the local community and its neighbours/ neighbouring communities;
 - e) Date.
1. After registration, Cadastre Services shall officially submit a certificate that shall contain the registration details, which is then delivered to the local community.
2. The certificate referred to in the previous paragraph of this article shall be issued within a maximum period of sixty days after delivery of documentation to Cadastre Services.

CHAPTER III

Delimitation of Areas Occupied in Good Faith by National Individual Persons

ARTICLE 14

Phases of delimitation

The provisions of Chapter II of this Technical Annex are applicable to delimitation in areas that are occupied in good faith by national individual persons.

CHAPTER IV

Demarcation

ARTICLE 15

Objective

1. The objective of demarcation is to establish on the ground such conditions as are necessary for:
 - a) The issuing of a title proving the right of land use and benefit acquired through occupancy by local communities.
 - b) The issuing of a title proving the right of land use and benefit acquired through occupancy in good faith by national individual persons who have been using the land for at least ten years.
 - c) The determination of the exact area of a parcel on which an individual or corporate national or foreign person intends to exercise economic activities or carry out an enterprise, after the issuing of provisional authorization pursuant to articles 28 and 29 of the Land Law Regulations.

2. The lack of demarcation shall not affect the right of land use and benefit acquired through occupancy by local communities or national individual persons, but when they intend to have a title issued, the rules of this chapter shall be followed.

ARTICLE 16

Boundaries

1. The boundaries are identified in the presence of the land surveyor, the titleholder or applicant or the neighbours.

2. In the case of a discrepancy between the boundaries of community areas established through customary practices and those that were measured, the boundaries established by customary practice shall prevail.

3. The boundaries of areas identified in the delimitation shall not be altered in the demarcation in such a way that it would be detrimental to the communities or good faith occupiers.

4. If during the demarcation of a parcel of land a discrepancy is identified in relation to the details of a prior demarcation of a neighbouring parcel, the following rules shall apply:
 - a) The boundaries established on the ground shall prevail;
 - b) If no boundaries have been established on the ground, the description of the boundaries contained in the cadastral process shall be resorted to;
 - c) In the event that the description in the cadastral process does not lead to a resolution of the discrepancy, resort shall be had to other factual evidence.

ARTICLE 17

Local communities

The titling of areas occupied by communities shall comprise:

- a) Information and dissemination;
- b) Participatory appraisal
- c) The sketch and its descriptive report;
- d) Feedback;
- e) Process of demarcation in accordance with the provisions of articles 20 and 21 of this Technical Annex.

ARTICLE 18

Good faith occupants

The titling of areas occupied by national individual persons in good faith shall contain:

- a) Information and dissemination;
- b) Participatory Appraisal;
- c) The sketch and its descriptive report;
- d) Feedback;
- e) Application of demarcation in accordance with the provisions of articles 20 and 21 of this Technical Annex.

ARTICLE 19

Authorisation of an application for the right of land use and benefit

The demarcation of a parcel of land which is the subject of an application for the acquisition of the right of land use and benefit, which already has had provisional authority issued pursuant to articles 28 and 29 of the Land Law Regulations is made in accordance with the provisions of articles 20 and 21 of this Technical Annex.

ARTICLE 20

Application for demarcation

The application for demarcation shall contain:

- a) Technical reconnaissance;
- b) Staking-out of markers;
- c) Measurements
- d) Preparation of a technical file.

ARTICLE 20

Application for demarcation

- 1. The technical file shall include technical and descriptive details.
- 2. The descriptive section shall contain the demarcation notice.
- 3. The technical section shall contain:
 - a) Topographic map;
 - b) Diagram of the links to the geodetic network;
 - c) Details of the measurements;
 - d) Calculation of the area of the parcel;
 - e) List of the co-ordinates.

Information and Dissemination

FORM 1

Province: _____ District: _____

Locality: _____ Community: _____

Type of Activity (1)	Date	Content (2)	Participants (men, women, leaders, others) (3)	Facilitator(s) of working group (4)	Minutes Appended (5)
Election of community representatives					

NOTE: Facilitators do not participate in the election of the community representatives.

Community Representatives	Facilitators
1	6
2	7
3	8
4	9
5	

- 1. Indicate whether a meeting, lecture, field visit, video session or other.
- 2. What it was about and what materials were used.
- 3. Indication of the number of participants.
- 4. Name of the organization.

**Approval of Application for Delimitation of
a Community Area or an Area Occupied in Good Faith FORM 2**

Province: _____ District: _____
 Locality: _____ Community: _____

a. Why is delimitation desired?

Existence of conflicts	
Implementation of projects	
Request by community	
Other	

b. Declaration of approval of application for delimitation of community area/area occupied in good faith.

The community/occupier in good faith _____
 declares that he/she/it understands the application and the consequences of the delimitation of his/her/its land and its registration in the National Land Cadastre. This delimitation shall be made in terms of the Land Law, the Land Law Regulations and the Technical Annex thereto, as specified in the phase of information and dissemination.

c. Declaration of undertaking to pay the costs of delimitation.

The community/state/investor/good faith occupier undertakes to pay the costs of the delimitation in the following proportions:

	% of costs	Value (MT)
Community		
State		
Investor		
Good faith occupier		
Other		

Community Representation	District Administrator or his/her representative
1.	Good faith occupier
2.	
3.	Investor
4.	
5.	Working group
6.	
7.	Other
8.	
9.	

Attached: Minutes of Meetings

Phases of the Participatory Appraisal FORM 3

Province: _____ District: _____
 Locality: _____ Community: _____

Activity	Outcome		Date	Document attached(√)	Participants (men/women/leaders/others)	Working Group Facilitator(s)
	Report	Map				
Historic profile						
Social organization						
Use of natural resources						
Spatial occupation						
Population dynamics						
Participatory Map 1						
Participatory Map 2						
Other maps						
Cartogram						
Identification of conflicts						
Mechanisms to resolve conflicts						
Economic activities of an entrepreneurial nature*						
Other undertakings						

* Undertakings already authorized or still in application phase

Working Group

_____ (Signature)

Descriptive Report of the Sketch

FORM 4

-1-

Province: _____ District: _____
 Locality: _____ Community: _____

1. Description of boundary points

Points	Type (*)	X Coordinates	Y Coordinates
1.			
2.			
3.			
4.			
5.			
6.			
7.			

NOTE: The measurements of co-ordinates is only necessary in the case of points which cannot be identified from existing topographical maps.

(*) Confluence of rivers, cement monuments, mountain summit, etc

FORM 4

-2-

Province: _____ District: _____
 Locality: _____ Community: _____

2. Description of boundary lines

Line	Description (1)
1 – 2	
2 – 3	
3 – 4	
4 – 5	

(1). Indicate where the start is and where it ends, for example along the river until a certain point, 10m from the river, 1000 meters from the road.

2. Description of servitudes

Line	Description (2)
A – B	
B – C	
C – D	
D – E	

(2) Indicate the type of servitude (access to water, paths and/or others), where it starts and where it ends.

Topographical technician (signature)	Working Group (signature)
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Feedback

FORM 5

Province: _____ District: _____

Locality: _____ Community: _____

Description	(√)
Participatory Appraisal report	
Participatory maps	
Cartogram	
Sketch	
Descriptive report	

Community Representation	District Administrator or his/her representative
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
Date	

Representation of neighbouring communities

Name:	Name:	Name:	Name:
1.	1.	1.	1.
2.	2.	2.	2.
3.	3.	3.	3.
4.	4.	4.	4.
5.	5.	5.	5.
6.	6.	6.	6.
7.	7.	7.	7.
8.	8.	8.	8.
9.	9.	9.	9.

Topographical technician	Working Group
(signature)	(signature)

Entry in National Land Cadastre

FORM 6

Province: _____ District: _____

Locality: _____ Community: _____

Number of cadastral process:

Documents enclosed	(√)
Form 1: Information and Dissemination	
Form 2: Approval of application for delimitation	
Form 3: Participatory Appraisal	
Sketch and Form 4: Descriptive report	
Form 5: Feedback	

Cadastral Technician:

Date:

ACTIVITIES OF SWORN SURVEYORS

Law 16/92
of 14 October

Decree Law 29/75 of 23 October prohibited private surveyors from carrying out activities as independent professionals and prohibited private companies from carrying out topographic, photogrammetric and cartographic work.

In the context of the country's development and of the new legal-constitutional framework, these activities should be reinstated.

In these terms, under article 135(1) of the Constitution, the Assembly of the Republic determines:

ARTICLE 1.

Under this law sworn surveyors are authorised to carry out activities as independent professionals and private entities are authorised to carry out topography, photogrammetry and cartography.

ARTICLE 2.

The Council of Ministers shall have authority to issue regulations governing the activities referred to in the preceding article.

ARTICLE 3.

Decree Law 29/75 of 23 October is repealed.

Approved by the Assembly of the Republic.

SPEAKER OF THE ASSEMBLY OF THE REPUBLIC,
Marcelino dos Santos

Promulgated on 14 October 1992.
Let it be published

THE PRESIDENT OF THE REPUBLIC,
Joaquim Alberto Chissana

REGULATIONS ON ACTIVITIES OF SWORN SURVEYORS

Decree 15/93
of 25 August

Law 16/92 of 14 October revokes Decree 29/75 of 23 October and authorises the activities of sworn surveyors as independent professionals and the carrying out of topographic, photogrammetric and cartographic work by private entities.

It being necessary to regulate the activities of sworn surveyors, the Council of Ministers, under the authority vested in it by article 2 of Law 16/92, decrees:

ARTICLE 1.

The Regulations on Activities of Sworn Surveyors are hereby approved and are attached hereto as an integral part of this decree.

ARTICLE 2.

This decree enters into force ninety days after its publication in the Boletim da República (Official Gazette).

Approved by the Council of Ministers.
Let it be published.

THE PRIME MINISTER,
Mário da Graça Machado

REGULATIONS ON ACTIVITIES OF SWORN SURVEYORS

CHAPTER I

The profession of surveying

ARTICLE 1

A sworn surveyor is any national or foreign citizen who is fully in possession of his or her civil rights and is professionally qualified to carry out the activity.

ARTICLE 2

A sworn surveyor's professional capacity is proved by means of an exam set by the National Directorate of Geography and Cadastre, which candidates are eligible to sit if they present a diploma or certificate in Topography issued by officially recognised schools of specialisation, or by presentation of a certificate issued by an institution of higher education that includes the subject.

ARTICLE 3

These Regulations apply exclusively to the activity of sworn surveyors, which must be duly authorised.

ARTICLE 4

The activities of sworn surveyors comprise reconnaissance work, demarcation of land plots and topographic surveys within the framework of cadastral operations.

ARTICLE 5

1. The licence of a sworn surveyor is issued by the Minister of Agriculture on the application of the interested party.
2. When the application referred to in this article is approved, the interested party shall swear an oath before the Minister of Agriculture or his or her delegate, in the following form:

“I swear on my honour that I will comply with the laws and regulations relating to surveying work, as well as the contracts I enter into in the profession which the sworn surveyor's licence allows to me to practise; I will collaborate with the National Directorate of Geography and Cadastre, to whose instructions I will submit my activity.”

3. The surveyor's licence shall be duly sealed and signed by the Minister of Agriculture.

ARTICLE 6

1. The National Directorate of Geography and Cadastre shall keep a register of sworn surveyors authorised to practise the profession in Mozambique, and a list of sworn surveyors in practice, with an indication of their respective places of residence, shall be published each year in the Boletim da República.

2. An individual file shall be kept for each sworn surveyor in the National Directorate of Geography and Cadastre, in the form used for State employees.

ARTICLE 7

Sworn surveyors and companies that they set up are the only entities outside the National Directorate of Geography and Cadastre that can, under contract, carry out work in respect of land demarcation and cadastral operations for the purposes of the issuing of land use and benefit titles.

ARTICLE 8

For record and archive purposes, companies and firms shall deliver to the National Directorate of Geography and Cadastre certificates of their articles of association and amendments thereto, as well as information about management and technical staff employed.

ARTICLE 9

For the purposes of enforcement of the provisions of these Regulations, the National Directorate of Geography and Cadastre shall be the supervisory body.

CHAPTER II

Contracts

ARTICLE 10

1. The contract referred to in article 7 shall follow the model contract established by the National Directorate of Geography and Cadastre.
2. The contracts shall be signed by the interested party or parties and by the surveyor in charge, which signatures shall be certified by a Notary otherwise they shall not be valid.
3. The model contract may only be modified in special cases, upon a reasoned proposal by the surveyor being accepted by the National Directorate of Geography and Cadastre.

ARTICLE 11

Sworn surveyors and representatives of companies that have signed contracts shall be jointly and severally liable for damages arising from infractions committed.

ARTICLE 12

1. Contracts for the provision of services shall be delivered to the Provincial Geography and Cadastre Services, upon which ten per cent of the contract value shall be paid for the purposes of inspection and verification of the work to be performed.
2. The amount referred to in the preceding paragraph constitutes consigned funds of the National Directorate of Geography and Cadastre, for the strengthening of its inspection capacity.
3. For the purposes of the provisions of this article, the minimum amount that can be charged for inspection and verification work shall be calculated on the basis of the official rates schedules of the National Directorate of Geography and Cadastre.

ARTICLE 13

1. Contracts for the provision of services must be approved by the head of the Provincial Geography and Cadastre Services, who shall set a time limit for delivery of the respective technical process.
2. The approval may indicate aspects to which the surveyors should pay special attention, whether from a technical or a legal point of view.

ARTICLE 14

When the head of the Provincial Services sets the time limit referred to in the preceding article, he shall take into account the area, distance, nature of the land and other circumstances that he considers or that the surveyor suggests in a letter of application.

ARTICLE 15

When sworn surveyors perform work that should be appraised by the National Directorate of Geography and Cadastre, they are considered as official agents of the National Directorate for the purposes of exercising authority and requesting diligence, assistance and protection from the local administrative authorities.

ARTICLE 16

- Surveyors, as official agents of the National Directorate of Geography and Cadastre, shall:
1. Comply with and enforce the legal provisions governing rights to use and benefit from land and all cadastral operations.
 2. Enlighten proprietors and concessionaires of land about their rights and duties under the law.
 3. Comply with the technical precepts and instructions issued by the National Directorate of Geography and Cadastre.

ARTICLE 17

1. Work resulting from contracts for the provision of services may only be initiated after the respective contract has been approved with an indication of the time limit set for delivery of the respective technical process to the Provincial Geography and Cadastre Services.

2. An extension of the time limit may be requested by the contracting parties and granted by the head of the Provincial Geography and Cadastre Services.

ARTICLE 18

The Provincial Geography and Cadastre Services shall issue the demarcation licence, which shall be presented by the surveyor to the district administrator or his or her delegate prior to commencement of the work.

ARTICLE 19

The technical processes and demarcation documents shall be signed by the demarcating surveyor and by the technical director of the contracted firm or company, if there is one.

ARTICLE 20

Demarcation work shall not be accepted if it is proved that it was not executed by the person who signs it.

ARTICLE 21

A surveyor who encounters an area occupied by resident population when performing a demarcation shall delimit the area and depict it on the respective map.

ARTICLE 22

The surveyor is responsible for any irregularities or faults in concession processes that are caused by defective information that he provides, in particular where this adversely affect the rights of third parties and resident populations.

ARTICLE 23

When the technical process in respect of demarcation work is not approved, or when it is not lodged with the appropriate Geography and Cadastre Services within the established time limits, the contract shall lapse.

ARTICLE 24

Sworn surveyors and companies set up by sworn surveyors are under an obligation to send a list of all apparatus and other technical material that they have, with an indication of the characteristics and working condition thereof, to the National Directorate of Geography and Cadastre by the 31st of January each year

CHAPTER IV*Penalties***ARTICLE 25**

Sworn surveyors who breach the provisions of these Regulations shall be subject to the following penalties:

1. Written warning given to the accused.
2. Warning published in an Office Circular.
3. Temporary suspension.
4. Licence cancellation.

ARTICLE 26

1. The penalties in paragraphs 1 and 3 of the preceding article hereof shall be applied for defaults that do not cause harm or discredit the Services or third parties and shall always be for the purposes of professional improvement of surveyors.

2. The penalties referred to in this article are especially applicable, according to the degree of the offence, to sworn surveyors who:
- a) Do not meet the time limits established for delivery of technical processes for demarcation work;
 - b) Do not follow the instructions and precepts issued by the National Directorate of Geography and Cadastre;

- c) Fail to report to the competent authorities breaches of the Land Law Regulations of which they are aware.

ARTICLE 27

The penalty of licence cancellation is applicable in the following cases:

1. Systematic failure to comply with contracts.
2. Proved involvement in grave irregularities in the practice of the profession.
3. Serious professional incompetence.

ARTICLE 28

The following entities have authority to apply the penalties set forth in article 25 of these Regulations:

1. The Minister of Agriculture, in the case of the penalty referred to in paragraph 4.
2. The National Director of Geography and Cadastre, in the case of the penalty referred to in paragraph 3.
3. The head of the Provincial Geography and Cadastre Services, in the case of the penalties referred to in paragraphs 1 and 2.

ARTICLE 29

All penalties shall be recorded in the surveyor's register and those referred to in paragraphs 3 and 4 of article 25 shall be published in the Boletim da República.

Decree 9/97 of 22 April

Amends article 1 of the Regulations on Activities of Sworn Surveyors approved by Decree 15/93 of 25 August.

Decree 9/97 of 22 April

The Regulations governing the activities of sworn surveyors were approved by Decree 15/93 of 25 August. The experience of the implementation of these Regulations shows that this activity should be restricted to professionals who are not simultaneously linked to State institutions responsible for the cadastre, because otherwise their objectivity in inspecting and verifying work performed by sworn surveyors is jeopardised.

In these terms, under the authority vested in it by article 2 of Law 16/92 of 14 October, the Council of Ministers decrees:

Single provision: Article 1 of the Regulations on activities of sworn surveyors is amended and shall now read as follows:

«ARTICLE 1

1.
2. Exercising the activity of a sworn surveyor is incompatible with the capacity of a State employee employed in the National Directorate of Geography and Cadastre or Provincial Services thereof, or working under contract on or off the staff, or on any projects realised within the framework of the aforesaid institution.»

Approved by the Council of Ministers.
Let it be published.

THE PRIME MINISTER,
Pascoal Manuel Moambi.

**Decree 01/ 2003
of 18 February**

It is necessary to make the procedures and methodologies of the National Land Cadastre and the Real Estate Registry compatible, with a view to streamlining access to land and guarantee the security of land tenure. Therefore, under the authority vested in it by article 33 of Law 19/97 of 1 October, the Council of Ministers decrees:

Single provision: Articles 20 and 39 of the Land Law Regulations approved by Decree 66/98 of 8 December are amended to read as follows:

“ARTICLE 20
Registration

1. The following are subject to registration at the Real Estate Registry at the instance of titleholders:

- a) The provisional authorisation of the right of land use and benefit;
- b) The title;
- c) Legal acts or events by which the right of land use and benefit is constituted, recognised, acquired or modified;
- d) Legal acts or events by which the servitudes referred to in article 13(1)(b) and article 14(b) of these Regulations are constituted, recognised, acquired or modified;
- e) Contracts for the transfer of exploitation rights entered into in respect of the total or partial exploitation of urban or rural tenements;
- f) Other acts or events provided for in the applicable legislation.

2. In the case of transfer by inheritance of the right of land use and benefit acquired by authorisation of an application, the heirs of the deceased, holding documents evidencing their capacity, namely, a court decision or deed of entitlement, shall request registration in the Real Estate Registry office in the respective area.

3. Local communities may request the Real Estate Registry office in the respective area to register their right of land use and benefit, servitudes in respect of community access routes and rights of way for cattle, as well as other rights recognised by law, by presenting the Certificate of delimitation, Title or other documentary evidence. The said rights or servitudes shall not be adversely affected by the absence of registration.

4. Information about the revocation of a Provisional Authorisation and about the extinguishment of a right of land use and benefit, as well as any relevant alterations under the terms of Law 19/97 of 1 October, shall be transmitted by the Cadastre Services to the Real Estate Registry office in the respective area.”

“ARTICLE 39
Infractions and penalties

1. The destruction or dislocation of boundary, triangulation, cadastral and other markers which serve as points of reference or support will result in a fine equivalent to double the replacement costs.

2. Delay in the submission of an application for renewal of the term will result in a fine equivalent to the renewal fee multiplied by the number of years, or any fraction thereof, by which the submission was delayed.

3. Failure to pay the annual fee within the time limit established in article 42 of these Regulations will result in a fine equivalent to one twelfth of the annual fee for each month of delay.

4. Failure to pay the fine within fifteen days after notice thereof to the offender will result in the referral of the notice of infraction and other records to the court of Fiscal Executions for enforced payment”.

Approved by the Council of Ministers.
Let it be published.

THE PRIME MINISTER
Pascoal Manuel Moambi

Relevant issues about land legislation in Mozambique

We thought it would be useful to explain some of the issues surrounding land legislation, in order to make it easier for our readers to understand some of the important features.

Land ownership in Mozambique

Who owns land in Mozambique?

In the Republic of Mozambique, land is the property of the State. This means that the right of ownership over land is vested in the State (article 46 of the Constitution and article 3 of the Land Law).

Consequently, land may not be sold, alienated, mortgaged or attached (distrained).

Notwithstanding that land is owned by the State, all Mozambicans have the right to use and enjoy the land (right of land use and benefit).

Right of land use and benefit

1. What is a right of land use and benefit

Right of land use and benefit is a right that individual or corporate persons (be they national or foreign) and local communities acquire in respect of land, subject to the demands and limitations of the land legislation.

2. Who can hold a right of land use and benefit?

Individual and corporate persons and local communities can be holders of a right of land use and benefit.

Under the land legislation, there are national holders, as provided for in article 10 of the Land Law, and foreign holders, as provided for in article 11.

National titleholders- National individual and corporate persons, men and women, as well as local communities may be holders of the right of land use and benefit. By making the right of individual persons (men and women) explicit and clear, the legislator wished to stress that the right can be held by women independently of male guardianship. This flows from the principle of equality provided for in articles 66 and 67 of

the Constitution of the Republic.

National individual or corporate persons may obtain a right of land use and benefit individually or jointly with other individual or corporate persons, under joint title.

The right of land use and benefit of local communities adheres to the principles of joint title holding, for the purposes of the Law.

Joint title holding: Title is held jointly when the right of land use and benefit belongs to two or more persons.

Foreign titleholders: Foreign individual and corporate persons may be holders of a right of land use and benefit, provided that they have an investment project that is duly approved under the provisions of the investment legislation (Law 3/93 of 24 July and Decree 14/93 of 21 July) and the following conditions are observed:

- a) in the case of individual persons, they shall have been resident in the Republic of Mozambique for at least five years (this requirement can be evidenced by the person's DIRE (residence and identity document) or a document issued by the immigration department);
- b) in the case of corporate persons, they shall be established or registered in the Republic of Mozambique.

It should be noted that article 25(2) of the Land Law Regulations provides that when land is for a personal dwelling, the foreign person need not submit a duly approved investment project.

3. How is the right of land use and benefit acquired?

Under the land legislation, there are three ways in which rights of land use and benefit can be acquired.

I. *Occupancy in accordance with customary norms* and practices which do not contradict the Constitution. This form of occupancy is only granted to national individual persons and local communities;

II. *Occupancy in good faith*. This right is also only granted to national individual persons, where they have been using the land in good faith for at least ten years

III. *Formal authorisation* – This right applies to both categories of persons (national and foreign), where they meet all the legally established requirements.

4. What is a right of land use and benefit by occupancy?

This is where the right of land use and benefit is acquired by national individuals or local communities that have been using the land in good faith for at least ten years.

5. What are the time periods of rights of land use and benefit?

The first authorisation (provisional authorisation) that the Cadastre Services grant to the applicant lasts for two (2) years for foreigners and for five (5) years for nationals.

Once the provisional authorisation period has expired, or before this if the applicant so requests, the land is inspected to check that the proposed project or the exploitation (development) plan has been fulfilled in accordance with the approved schedule. If the exploitation plan or the project has been fulfilled, the Cadastre Services issue a definitive authorisation, which is valid for 50 years and may be renewed for a further 50 years.

It should be noted that the following rights of land use and benefit are not subject to the 50-year time limit:

- Those acquired by occupancy by local communities;
- Those destined for personal dwellings;
- Those destined for family development by national individuals.

6. Where can rights of land use and benefit not be granted?

Rights of land use and benefit are not granted over *partial or total protection* zones, as these are areas to be used in the public interest.

Only certain activities can be conducted in these zones, and a special licence from the Cadastre Services is required for these.

7. Who authorises special licences?

The following have power to authorise special licences:

- Provincial Governors, in the case of Partial Protection Zones;
- The Minister of Agriculture and Rural Development, in the case of Total Protection Zones.

Special licence: a document authorising any economic activities within total or partial protection zones.

These total and partial protection zones are created, modified and extinguished by the Council of Ministers.

Application for a right of land use and benefit

1. Where is the application made?

The application is made at the Cadastre Services in the province where the desired land plot is located.

2. What documents are required for the application?

To acquire a right of land use and benefit under an authorisation, the following documents are required:

- A duly completed form – the form can be obtained from the Provincial Geography and Cadastre Services;
- In the case of an individual person, the identification document of the applicant or, in the case of a corporate person, the articles of association;
- a sketch of the location of the land desired;
- The exploitation plan and/ or the investment project approved by the competent authority;
- Report of consultations with the local community;
- Copy of the public notice;
- Payment deposit slip;
- Receipt as proof of payment of the annual fee.

3. Time limit for responding to the application

The maximum time limit within which the application must be processed is 90 days.

4. What costs are payable for the application?

The costs of processing the application and visiting the site for reconnaissance and consultation purposes are:

TABLE I

Description	Amount payable (in MT)
Location sketch	200.000,00
Emoluments	600.000,00
Reconnaissance and consultation	(See Table II)
Community incentive	300.000,00
Form	10.000,00

TABLE II

Description	Amount payable per day
Senior technician	600.000,00 MT
Interm. technician	487.500,00 MT
Basic technician	397.500,00 MT
Fuel, where an office vehicle is used	5.000,00 MT/ Km

FORMULA FOR CALCULATING RECONNAISSANCE (R) AND LOCAL COMMUNITY CONSULTATION (C)

$R = \text{Technician} \times \text{days} \times \text{daily rate} + (5.000,00\text{MT} \times K) =$	MT
$C = \text{Technician} \times \text{days} \times \text{daily rate} + (5.000,00\text{MT} \times K) =$	MT

Where R = Reconnaissance

C = Consultation

K = Distance in kilometres from the cadastre services office to the site

5. Is local community consultation required for an application for a right of land use and benefit? How is this done?

Yes, applications for rights of land use and benefit will not be processed unless local community consultation has taken place.

A technician of the Provincial Geography and Cadastre Services (SPGC), the district administrator or his or her representative, the district director of agriculture and rural development (DDADER) and the members of the local community participate in the local community consultation process. The applicant or his or her representative also participates.

6. Is an exploitation plan needed for the application?

An exploitation plan is only required when land is to be used for economic activities. For all other activities, it is not required.

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.

7. What rights of a titleholder does the State recognise and protect?

For titleholders of a right of land use and benefit, the State recognises and protects rights acquired by occupancy through customary norms and practices, in good faith for more than ten years, and occupancy by inheritance.

8. What is needed to carry out private investment projects that require rights of land use and benefit to be acquired?

For carrying out private investment projects that require rights of land use and benefit, the following are required:

- Prior identification of the land (Cadastre Services, local administrative authorities and local communities);
- Documents required for an application for land use and benefit.

Authorisation of an application

1. Who authorises the application?

Under article 22 of the Land Law, the following entities can authorise an application:

- Provincial governors (for areas of up to 1000 hectares);
- The Minister of Agriculture and Rural Development (for areas of between 1000 and 10,000 hectares);
- The Council of Ministers (for areas that exceed the Minister of Agriculture's authority).

2. Are there different types of authorisation? What are they?

There are two different types of authorisation: provisional authorisation (which lasts for 5 years for nationals and 2 years for foreigners) and definitive authorisation (which is for a 50-year period, renewable for a further 50 years).

Transfer

1. How are rights of land use and benefit transferred?

A right of land use and benefit can be transferred in two ways:

- Inter vivos, by the sale and purchase of infrastructures, structures and improvements on the authorised land plot.
- By inheritance.

2. Is the right of land use and benefit transferred automatically when infrastructures, structures and improvements on rural tenements (prédio rústico) are sold?

No. The purchaser of infrastructures, structures and improvements does not acquire the right of land use and benefit automatically. After the deed of sale has been executed, the purchaser should apply for the right of land use and benefit in respect of the land on which the infrastructures, structures and improvements are in his or her name.

Title

1. What is a right of land use and benefit title?

Title (sometimes called a title deed) is a document issued by the general or urban Public Cadastre Services, proving right of land use and benefit.

The non-existence of a title does not affect a right of land use and benefit

acquired by occupancy (by local communities in good faith for more than ten years).

2. How are rights of land use and benefit extinguished?

A right of land use and benefit may be extinguished in the following instances:

- a) By failure by the titleholder to fulfil the exploitation plan without justifiable reasons, even if fiscal obligations (annual fees) 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.

Registration of the right of land use and benefit

1. Is registration compulsory?

It is not compulsory to register a right of land use and benefit. This can be done on the initiative of the titleholders. Although registration is not compulsory, it is important for titleholders to register their rights, since this gives the public notice of the act and the said right.

2. Which entity is responsible for registration?

The local (provincial) Real Estate Registry where the authorised land is located is responsible for registration.

Payment of fees

1. What type of fees are right holders subject to?

Holders of the right of land use and benefit are subject to the following fees:

Authorisation fee: Provisional (due at the beginning of the application process) and *definitive* (due when the definitive authorisation is issued).

Annual fee: payable annually between January and March or in two instalments, the first to be paid by the end of March and the second by the end of June.

2. Where are fees paid?

Fees should be paid to the Cadastre Services.

3. How much are annual fees?

Annual fees are calculated based on the location of the land, its size and the purpose for which it is to be used.

4. Are there any exemptions from annual fees?

The following are exempt from annual fees:

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

However, a titleholder who, for reasons beyond his or her control and responsibility, is unable to meet the conditions of the exploitation plan may apply to the entity that authorised the application for a temporary exemption from annual fees for a period of up to three years.

Maputo, July 2004

Dear Readers,

MozLegal has great pleasure in presenting to you this publication, a compilation of land legislation.

MozLegal is a project of José Caldeira & Associados – Attorneys and Consultants (JC&A) and was formally established in 2003. Its purpose is to contribute towards the greater dissemination of Mozambican legislation and legal information. To this end, the project has developed three areas:

- A freely accessible website at www.mozlegal.com
- Publication of a newsletter
- The publication of legislation, beginning with this compilation.

MozLegal and the business environment

We have noted that, although some publications exist, there is great demand, both inside and outside Mozambique, for information on the business environment and regulatory legislation.

As Mozambique wishes to attract more local and foreign investment, it is important that people who want to invest, operate, work and live in our country have rapid access to legislation and find answers to their questions about the development of their activities.

For this reason MozLegal is sponsoring the development of the website and of publications in Portuguese and English. It also supports the publicising of legislation on commercial, labour, fiscal, customs, land and industrial property matters.

We have over 20 laws translated into English, including the Investment Law, the Law on Private Limited Companies, the Commercial Code, the IRPC and IRPS Codes. We also try to keep up-to-date with information about the legal reform under way.

Therefore, we await a visit from all of you to www.mozlegal.com and are very interested in receiving your comments and suggestions for improving the site.

Partners and Acknowledgements

We have received significant support for this initiative from our partners: **NAKOSSO** – the Niassa Business Centre, **DINAGECA** (the National Directorate of Geography and Cadastre), **CPI** (the Investment Promotion Centre) and **CTA** (Confederation of Business Associations of Mozambique). We hope that others will join us.

Our thanks also go to those who participated in this publication: Herman Hammarström (Zerif, Lda), Odete Mugumela (of Dinageca for JC&A), Daniel Doku (Nakosso), Lara Pacheco Faria (Nakosso), Orlando da Conceição (Nakosso), Carol Christie Smit (translations), Joaquim Falé (translations), Nancy Cardoso (JC&A) and Etna Correia (MozLegal).

MozLegal hopes that this publication achieves its purpose: to be a useful and practical resource for lawyers, investors and the public in general and to spread legal information about Mozambique further.

Warmest greetings,

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THE MOZLEGAL DIRECTORS

Adrian Frey – José Caldeira