

Mozambican Land Law of 1997

Law No. 19/97 of October 1

As a universal method of enrichment and of social well-being, the use and improvement of land is a right of all of the people of Mozambique.

The development challenge facing the nation, as well as the experience of applying Law No. 6/79, of July 3, Land Law, demonstrate the necessity of revising it so as to satisfy the current political, economic and social circumstances and the security of land possession, both for Mozambican landholders, as well as national and foreign investors.

It is intended, therefore, to promote the use and improvement of land, so that this resource, the most important that the nation makes available, may be valued and may contribute to the development of the national economy.

In light of these terms and under the obligation of the mandate of § 1 of Article 135 of the Constitution, the Assembly of the Republic determines:

CHAPTER 1

GENERAL DISPOSITIONS

ARTICLE 1

(Definitions)

For the purposes of the present Law, the following terms are understood:

1. *Local community*: a group of families and individuals, living in a circumscribed territorial area at the level of locality or below, which aims to safeguard the common interests through the protection of areas of habitation, agricultural areas, whether cultivated or fallow, forests, sites of cultural importance, pastures, water sources and areas of expansion.
2. *Right of land use and improvement*: the right that individuals, groups of individuals and local communities acquire in land, with the requirements and limitations of the present Law.
3. *Public dominion*: areas designed for the satisfaction of the public interest.
4. *Familial exploitation*: activity of land exploitation seeking to respond to the necessities of the family group, predominantly using the work capacity of the same.
5. *Special license*: document that authorizes the fulfillment of any economic activities in the zones of total or partial protection.
6. *Land use map*: chart that shows all land occupation, including the localization of human activity and the natural resources existing in a determined area.
7. *Occupation*: form of acquisition of the right of use and improvement of land by individual national persons that, in good faith, have been using the land for at least ten years, or by the local communities.
8. *National collective entity*: any society or institution established and registered according to the terms of Mozambican legislation, with its headquarters in the Republic of Mozambique, whose social capital belongs by at least fifty percent to Mozambican national citizens, societies or institutions, whether private or public.
9. *Foreign collective entity*: any society or institution established according to the terms of Mozambican or foreign legislation, whose social capital is held by more than fifty percent by foreign citizens, societies or institutions.

10. *National individual person*: any citizen of Mozambican nationality.
11. *Foreign individual person*: any individual whose nationality is not Mozambican.
12. *Plan of exploitation*: document presented by the applicant of the request to use and improve the land, describing the set of activities, works and constructions that he promises to fulfill, within a determined time period.
13. *Plan of land use*: document approved by the Counsel of Ministers, that seeks to provide, in a comprehensive way, intentions for the general and sectorial development of a determined geographic area.
14. *Plan of urbanization*: document that establishes the organization of urban boundaries, their conception and form, parameters of occupation, destination of the constructions, patrimonial values to protect, places appointed for the installation of equipment, free spaces and the schematic design of the network of roads and of the principal infrastructures.
15. *Ownership of land*: the exclusive right of the State, consecrated by the Constitution of the Republic of Mozambique, integrating, besides all of the rights of an owner, the ability to determine the conditions of its use and improvement by individual and collective entities.
16. *Applicant*: individual or collective entity that solicits, in writing, authorization to use and improve on the land under the protection of the present Law.
17. *Title holder*: individual or collective entity that has the right of use and improvement of land, under the protection of authorization or through occupation.
18. *Title*: document rendered by the general or urban Public Cadastre Services, confirming the right of use and improvement of land.
19. *Natural protection zone*: the good of the public domain, reserved for the conservation or preservation of certain animal or plant species, biodiversity, historic monuments, landscapes and sceneries, in an administrative regime preferably with the participation of the local communities, determined by specific legislation.

ARTICLE 2

(Scope)

The present Law establishes the terms by which function the formation, exercise, modification, transmission and termination of the right of use and improvement of land.

CHAPTER II

OWNERSHIP OF LAND AND PUBLIC DOMAIN

ARTICLE 3

(General principle)

Land is owned by the State and may not be sold or by any other means transferred, leased or mortgaged.

ARTICLE 4

(State Land Fund)

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

ARTICLE 5

(National Land Cadastre)

1. The National Land Cadastre contains all of the necessary facts, namely to:
 - a. know the economic-judicial situation of the land;
 - b. know the types of occupation, use and improvement, as well as the evaluation of soil fertility, forestation spots, hydric reserves of fauna and flora, zones of mineral exploitation and tourist profit;
 - c. efficiently organize the usage of land, its protection and conservation;
 - d. determine the proper regions for specialized productions.
2. The National Land Cadastre proceeds to the economic qualification of the facts defined in the previous section of the present article, so as to permit the establishment of planning and the distribution of the country's resources.

ARTICLE 6

(Public Domain)

The public domain includes zones of total and partial protection.

ARTICLE 7

(Zones of total protection)

Zones of total protection are considered to be areas appointed for activities of conservation or preservation of nature and of the defense and security of the State.

ARTICLE 8

(Zones of partial protection)

Zones of partial protection are considered to be:

- a. the sea-beds of interior bodies of water, of the territorial sea and of the exclusive economic zone;
- b. the continental shelf;
- c. the strip within the maritime border and along the contours of islands, bays and estuaries, measured from the line of the furthest sea-beaches to 100 meters towards the interior of the territory;
- d. the strip of land of up to 100 meters bordering with springs of water;
- e. the strip of land of up to 250 meters along the contours of dams and lagoons;
- f. the terrain occupied by railways of public interest and by their respective stations, with the bordering strip of land of up to 50 meters on each side of the center of the railway;
- g. the terrain occupied by roadways and streets of four lanes. installations and conductors, whether aerial, on the land, underground or submarine, of electricity, oil, natural gas and water, with a bordering strip of 50 meters on each side, as well as the terrain occupied by the streets, with a bordering strip of 30 meters for the primary streets and of 15 meters for secondary and tertiary streets;
- h. the layer up to two kilometers along the earth's surface;
- i. the terrain occupied by airports and flying fields, with a bordering strip of 100 meters;
- j. the strip of land of 100 meters bordering on military installations and other installations for the defense and security of the State.

ARTICLE 9

(Special licenses for the exercise of activities in the zones of total and partial protection)

In the zones of total and partial protection, rights of use and improvement of land cannot be acquired; however, special licenses can be granted for the exercise of determined activities.

CHAPTER III

RIGHT OF USE AND IMPROVEMENT OF LAND

ARTICLE 10

(National subjects)

1. Subjects of the right of use and improvement of land include national entities, both collective and individual, both male and female, as well as local communities.
2. Individual and collective national entities may obtain the right of use and improvement of land, individually or together with other individual or collective entities, under the form of co-ownership.
3. The right of use and improvement of land belonging to local communities follows the principles of co-ownership, for all purposes of this Law.

ARTICLE 11

(Foreign subjects)

Individual and collective foreign entities may be subject to the right of use and improvement of land, provided that they have an investment project duly approved and that they observe the following conditions:

- a. being individual persons, they must have resided in the Republic of Mozambique for at least five years;
- b. being collective entities, they must be established and registered in the Republic of Mozambique.

ARTICLE 12

(Acquisition)

The right of use and improvement of land is acquired by:

- a. occupation by individual persons and by local communities, according to the customary norms and practices that do not conflict with the Constitution;
- b. occupation by national individual persons that, in good faith, have been using the land for at least ten years;
- c. authorization of a petition presented by individual or collective entities in the manner established in the present Law.

ARTICLE 13

(Entitlement)

1. The title will be granted by the general or urban Public Cadastre Services.
2. The absence of title does not prejudice the right of use and improvement of land acquired by occupation under the terms of paragraphs a) and b) of the preceding article.

3. The process of entitlement of the right of use and improvement of land includes the showing of local administrative authorities, following consultation with the respective communities, to the effect of confirming that the area is free and unoccupied.
4. The titles granted to the local communities are nominative, according to the denomination adopted for them.
5. Individual persons, male and female, belonging to a local community may solicit individual titles, after breaking off the respective plot from the communal areas.

ARTICLE 14

(Registration)

1. The formation, modification, transmission and termination of the right of use and improvement of land is subject to registration.
2. The lack of registration does not prejudice the right of use and improvement of land acquired by occupation, under the terms of paragraphs a) and b) of Article 12, as long as it is duly proved under the terms of the present Law.

ARTICLE 15

(Proof)

Proving the right of use and improvement of land may be accomplished by:

1. presenting the respective title;
2. testimonial proof attended by members, male and female, of the local communities;
3. skill and other methods permitted by law.

ARTICLE 16

(Transmission)

1. The right of use and improvement of land may be transmitted by inheritance, without gender distinction.
2. The titleholders of the right of use and improvement of land may transmit, between live persons, the infrastructures, constructions and improvements upon it, through a public writing preceded by authorization of the competent state authority.
3. In the cases referred to in the previous section, the transmission is noted in the respective title.
4. In the case of urban housing, with the transmission of the building is also transmitted the right of use and improvement of the respective plot of land.
5. The title-holder of the right of use and improvement of land may create a mortgage over immovable possessions and improvements that, duly authorized, that he erected on the land or over which he has legally acquired the right of ownership.

ARTICLE 17

(Duration)

1. The right of use and improvement of land for purposes of economic activities is subject to a maximum term of 50 years, renewable for an equal period at the request of the interested party. After the period of renewal, a new request must be presented.
2. There is no given term for the right of use and improvement of land that is:
 - a. acquired by occupation by the local communities;
 - b. reserved for one's own habitation;
 - c. reserved for familial exploitation exercised by national individual persons.

ARTICLE 18

(Termination of the right of use and improvement of land)

1. The right of use and improvement of land terminates:
 - a. by the non-fulfillment of the plan of exploitation or the investment project, without justification, within the time frame established in the approval of the request, even if the fiscal obligations have been fulfilled;
 - b. by revocation of the right of use and improvement of land to satisfy the public interest, following payment of just indemnification and/or compensation;
 - c. when the term expires or at its renewal;
 - d. by renunciation of the title-holder.
2. In the case of termination of the right of use and improvement of land, the improvements that cannot be removed revert to the State.

CHAPTER IV

EXERCISE OF ECONOMIC ACTIVITIES

ARTICLE 19

(Plan of exploitation)

The applicant requesting the right of use and improvement of land must present a plan of exploitation.

ARTICLE 20

(Licensing and the right of use and improvement of land)

The approval of the request for the right of use and improvement of land does not exempt the obtaining of licenses or other authorizations required by:

- a. legislation applicable to the exercise of intended economic activities, namely, cattle breeding or industrial agriculture, industry, tourism, commerce, fishing and mining and the protection of the environment;
- b. directives for the planning of land use.

ARTICLE 21

(Duration of licenses)

The licenses will have the duration defined according to the applicable legislation, independently of the term authorized by the exercise of the right of use and improvement of land.

CHAPTER V

JURISDICTION

ARTICLE 22

(Areas not covered by urbanization plans)

In areas not covered by urbanization plans, it is the jurisdiction of:

1. The Provincial Governors:

- a. to authorize requests to use and improve the land of areas up to the maximum limit of 1000 hectares;
 - b. to authorize special licenses in the zones of partial protection;
 - c. to give their judgment about requests to use and improve the land concerning areas that correspond to the jurisdiction of the Ministry of Agriculture and Fishing.
2. The Ministry of Agriculture and Fishing:
 - a. to authorize requests to use and improve the land of areas between 1000 and 10,000 hectares;
 - b. to authorize special licenses in the zones of total protection;
 - c. to give their judgment about requests to use and improve the land concerning areas that are beyond its jurisdiction.
 3. The Council of Ministers:
 - a. to authorize requests to use and improve the land of areas that are beyond the jurisdiction of the Ministry of Agriculture and Fishing, provided they are introduced in a land use plan or whose enclosure is possible on a map of land use;
 - b. to create, modify or terminate zones of total and partial protection;
 - c. to deliberate about the use of sea-beds of territorial bodies of water and of the continental shelf.

ARTICLE 23

(Municipal and Village Councils and District Administrators)

It is the jurisdiction of the Presidents of Municipal and Village Councils and of the District Administrators, in areas where there are no municipal organs, to authorize requests to use and improve the land in the areas covered by urbanization plans and provided they have public cadastre services.

ARTICLE 24

(Local communities)

1. In rural areas, local communities participate in:
 - a. the management of natural resources;
 - b. the resolution of disputes;
 - c. the process of entitlement, according to the establishment of § 3 of Article 13 of the present Law;
 - d. the identification and delimitation of borders of lands occupied by them.
2. In the exercise of jurisdiction referred to in paragraphs a) and b) of § 1 of the present Article, the local communities may utilize, among others, customary norms and practices.

CHAPTER VI

AUTHORIZATION PROCESS FOR REQUESTS TO USE AND IMPROVE THE LAND

ARTICLE 25

(Provisional authorization)

1. After the presentation of the request to use and improve the land, a provisional authorization is granted.
2. The provisional authorization has a maximum duration of five years for national persons and two years for foreign persons.

ARTICLE 26

(Definitive authorization)

Provided that the exploitation plan has been fulfilled within the period of the provisional authorization, a definitive authorization to use and improve the land is given and the respective title is granted.

ARTICLE 27

(Revocation of provisional authorization)

At the end of the period of provisional authorization, if the exploitation plan remains unfulfilled without justification, the same may be revoked, without the right of indemnification of the non-removable investments built during that period.

CHAPTER VII

PAYMENTS

ARTICLE 28

(Fees)

1. The titleholders of the right of use and improvement of land will be subjected to the payment of fees, whose value is determined in consideration of the location of the land, their dimensions and the purposes of their use and improvement, including:
 - a. an authorization fee;
 - b. an annual fee, which may be progressive or regressive, depending on the investments the have been completed.
2. There are fixed, preferential fees for national citizens.

ARTICLE 29

(Free use of land)

Use and improvement of land is free when it is intended:

- a. for the State and its institutions;
- b. for public utility associations recognized by the Council of Ministers;
- c. for familial exploitation, for local communities and individual persons that are part of them;
- d. for national cooperatives and ranching associations of small scale.

CHAPTER VIII

FINAL AND TRANSITORY DISPOSITIONS

ARTICLE 30

(Representation and performance of the local communities)

The representation and performance mechanisms of the local communities, insofar as they concern the rights to use and improve the land, are fixed by law.

ARTICLE 31

(Land use plans)

The principles for elaboration and approval of land use plans are defined by law.

ARTICLE 32

(Application of the Law)

1. The rights of use and improvement of land, whether acquired by occupation or by the approval of a request, are governed by the present law, which safeguards the acquired rights.
2. Disputes over land are resolved in a Mozambican forum.

ARTICLE 33

(Regulation)

It is the jurisdiction of the Council of Ministers to approve regulations of the present Law.

ARTICLE 34

(Prior legislation)

Laws no. 6/79, of June 3, and no. 1/86, of April 16 are repealed, as well as any other prior legislation that conflicts with the present Law.

ARTICLE 35

(Entry into force)

The present Law enters into force 90 days after its publication.

Approved by the Assembly of the Republic, in session, *Abdul Carimo Mahomed Issa*.

Promulgated October 1, 1997.

Published.

The President of the Republic, JOAQUIM ALBERTO CHISSANO.