



**Regulations for the Resettlement Process
Resulting from Economic Activities**

**Decree 31/2012
of 8 August**

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REPUBLIC OF MOZAMBIQUE

COUNCIL OF MINISTERS

Decree 31/2012 of 8 August

The growing demand for natural resources in the country has brought about a need for more physical space for the establishment of economic undertakings, which imply the resettlement of members of the population in other areas, without observance of socioeconomic and cultural aspects.

As there is a need to standardise the resettlement process, the Council of Ministers decrees, under the provisions of article 30 of Law 19/2007 of 18 July, which approves the Territorial Planning Law:

Article 1

Approval

The Regulations for Resettlement Resulting from Economic Activities, as attached to this Decree, are hereby approved and constitute an integral part thereof.

Article 2

Creation

The Technical Resettlement Monitoring and Supervision Committee is hereby created, as a multisectoral technical advisory body for the Minister supervising the Territorial Planning area.

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Article 3

Competences

1. The Minister supervising the Territorial Planning area is competent to:
 - a) Indicate the members of the Technical Resettlement Monitoring and Supervision Committee;
 - b) Appoint the chairman of the Technical Resettlement Monitoring and Supervision Committee, from among its members.
 - c) Approve and order the publication of the Internal Regulations of the Technical Resettlement Monitoring and Supervision Committee and other complementary standards;
 - d) Approve the final evaluation report of the entire process.

Approved by the Council of Ministers, on 15 May 2012.

To be published.

The Prime Minister, *Aires Bonifácio Baptista Ali*.

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Regulations for the Resettlement Process Resulting from Economic Activities

CHAPTER I

General Provisions

Article 1 Definitions

For the purpose of these Regulations, the following definitions apply:

- a) **Activity** – any public or private action, project or undertaking related to the use or exploitation of environmental components, the application of technologies or productive processes, plans, programmes, legislative or regulatory acts, which affect or may affect the territory;
- b) **Tangible Goods** – all individual or collective measurable goods, such as crops, immovable property and improvements made in the expropriated area;
- c) **Intangible Goods** – all individual or collective non-measurable goods, such as communication routes, sacred forests, sites of historical interest, tombs and access to means of transport, basic services and others;
- d) **Social Facilities** – all priority social infrastructures of a day-to-day nature, such as schools, day-care centres, health units, squares, marketplaces, worship and meeting places;
- e) **Resettlement Plan** – the instrument defining in detail the type of occupation of any specific area, establishing the environmental design, determining soil uses and general building conditions, communication route design, and the network, infrastructure and service characteristics;
- f) **Affected Population** – people living in the area covered by a certain public or private activity, which is susceptible to cause their displacement from one point of the national territory to another;
- g) **Directly Affected Population** – people who have lost all their goods, such as houses, means of subsistence and other types of infrastructures;

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- h) **Indirectly Affected Population** – people who have suffered permanent or temporary interruption of their productive activity;
- i) **Temporarily Affected Population** – people who have suffered non-pecuniary losses during the works execution period;
- j) **Resettlement** – the displacement or transfer of the affected population from one point of the national territory to another, accompanied by the re-establishment or creation of conditions equal to or above their previous standard of living;
- k) **Plot with Infrastructures** – a demarcated physical space in a housing area having a street layout, piped water and electricity supply systems and sanitation;
- l) **Housing Unit** – a set of 400 medium-level plots between a district and a block of houses, suitable for the construction or establishment of dwellings and related infra-structures.

Article 2

Object

These Regulations stipulate the basic rules and principles of the resettlement process, on account of economic activities of public or private initiative, performed by national or foreign, natural or legal persons, with a view to the promotion of the citizens' quality of life and the protection of the environment.

Article 3

Scope

The provisions of these Regulations apply to the entire national territory and to national or foreign, public or private, natural or legal persons, involved in the resettlement process.

Article 4

Principles

The resettlement process resulting from public and private activities is based on the following principles:

- a) **Principle of Social Cohesion** – the resettlement shall guarantee social integration and re-establish the standard of living of the affected people, to a higher level;

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- b) **Principle of Social Equality** – all those affected by the resettlement process are entitled to the re-establishment or creation of conditions equal or above their previous standard of living;
- c) **Principle of Direct Benefit** – the affected people shall be given the possibility to benefit directly from the undertaking and its socio-economic impacts;
- d) **Principle of Social Equity** – the resettlement of populations in new areas shall take into account access to the available means of subsistence, social services and resources;
- e) **Principle of Non-Alteration of the Income Level** – the resettled people shall have the possibility to re-establish their previous basic income level;
- f) **Principle of Public Participation** – in the resettlement process there shall be hearings of local communities and other parties interested in and affected by the activity;
- g) **Principle of Environmental Accountability** – whoever pollutes or in any other way degrades the environment has always the obligation to repair or compensate the resulting damages;
- h) **Principle of Social Responsibility** – the investor must create social infrastructures, which promote learning, leisure, sports, health, culture and other projects of community interest.

Article 5

Purpose of the Resettlement

The resettlement aims at stimulating the socio-economic development of the country and guaranteeing a better quality of life of the affected population and social equity, taking into account the sustainability of the physical, environmental, social and economic aspects.

Article 6

Composition of the Technical Committee

1. The Technical Resettlement Monitoring and Supervision Committee includes representatives of the following sectors:
 - a) Two members of the Territorial Planning sector;
 - b) One member of the Local Administration sector;
 - c) One member of the Public Works and Housing sector;

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- d) One member of the Agricultural sector;
 - d) One member of the related area;
 - e) One member of the Provincial Government;
 - f) One member of the District Government.
2. Whenever justified by the nature of the work, representatives of other sectors, specialists or individuals of acknowledged merits may be invited to participate in the sessions.

Article 7

Functions of the Technical Committee

1. As a multi-sectoral and technical advisory body, the Technical Committee has the following functions:
 - a) To monitor, supervise and make methodological recommendations for the entire resettlement process;
 - b) To issue technical opinions about the resettlement plans;
 - c) To prepare monitoring and evaluation reports of the resettlement process, taking into account the previously approved plans;
 - d) To propose the notification of the proponent of an activity to provide information about the progress of the resettlement process;
 - e) To prepare the draft Internal Regulations of the Committee;
 - f) To propose complementary rules for the implementation of these Regulations.
2. The organization and functioning of the Committee is governed by its Internal Regulations, to be approved by the Minister supervising the Territorial Planning area.

Article 8

Other Stakeholders of the Resettlement Process

1. Without prejudice to the Technical Resettlement Monitoring and Supervision Committee, the following stakeholders participate in the resettlement process:
 - a) Five representatives of the affected population;
 - b) One representative of Civil Society;
 - c) Three community leaders;
 - d) Two representatives of the private sector.
2. The participation of the stakeholders referred to in the previous paragraph aims at the following:

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- a. Mobilization and awareness-raising of the population regarding the resettlement process;
- b. Intervention during all phases of the resettlement process, including the respective supervision;
- c. Awareness-raising about their rights and obligations resulting from the resettlement process;
- d. Informing the competent authorities about any irregularities or illegalities detected during the resettlement.

Article 9

Approval of the Resettlement Plan

1. The District Government is competent to approve the resettlement plans.
2. The approval of the resettlement plans is preceded by an opinion of conformity issued by the sector supervising the Territorial Planning area, after having heard the Agriculture, Local Administration, Public Works and Housing sectors.

Article 10

Rights of the affected population

1. The rights of the directly affected population are:
 - a) To have their income level re-established, equal to or above the previous level;
 - b) To have their standard of living re-established, equal to or above the previous level;
 - c) To be transported with their goods to the new place of residence;
 - d) To live in a physical space with infrastructures and social facilities;
 - e) To have space to perform their subsistence activities;
 - f) To give their opinion about the entire resettlement process.

Article 11

Responsibility of the proponent of the activity

The responsibilities of the proponent of the activity are the following:

- a) To prepare and implement the Resettlement Plan;
- b) To participate, whenever convened, in meetings of the Technical Resettlement Monitoring and Supervision Committee;

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- c) To implement the resettlement project in conformity with the approved Resettlement Plan, specific regulations and according to the recommendations resulting from the process;
- d) To bear the charges related to the preparation and implementation of the Resettlement Plan;
- e) To facilitate the resettlement monitoring and evaluation activities performed by the Technical Resettlement Monitoring and Supervision Committee.

Article 12

Responsibilities at central and local level

1. The responsibilities of the Territorial Planning sector in the resettlement process are the following:
 - a) To define regulatory instructions, parameters and methodologies for the resettlement process;
 - b) To provide technical assistance to the implementation bodies in land use planning matters;
 - c) To chair the activities of the Technical Resettlement Monitoring and Supervision Committee;
 - d) To monitor the resettlement processes and disseminate good practise.

2. The responsibilities of the Local Administration sector in the resettlement process are the following:
 - a) To raise the awareness of local bodies regarding the implementation of the resettlement programmes;
 - b) To supervise the implementation of the resettlement plans;
 - c) To monitor the performance and implementation of the resettlement plans.

3. The responsibilities of the Public Works and Housing sector in the resettlement process are the following:
 - a) To guide and monitor the establishment and development of infrastructures, namely, for access, water and electricity supply, sanitation, drainage, and for opening or improving access roads;

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- b) To guide and monitor the construction of public buildings;
 - c) To approve the house-building standards according to the socio-economic profile of the affected population;
 - d) To guarantee compliance with the building standards in force in the country.
4. The responsibilities of the Agriculture sector in the resettlement process are to provide technical assistance to the implementation bodies in land register organization matters.
 5. The responsibilities of the District Government in the resettlement process are the following:
 - a) To make spaces available for the resettlement of the affected families;
 - b) To guarantee the regularization of the occupation of the lots;
 - c) To inspect the implementation of the resettlement plans;
 - d) To make spaces available for the practice of subsistence activities.

Article 13 **Public Participation**

1. Public participation is guaranteed during the entire preparation and implementation process of the resettlement plans.
2. Public participation includes public consultation and hearings and comprises:
 - a) Requests for clarification;
 - b) Formulation of suggestions and recommendations;
 - c) Interventions in public meetings.
3. Public consultations are held through public meetings, according to the nature of the issues, for analysis of the local dimensions of the environmental planning and national-level coordination strategies, for harmonization of the strategies and evaluation of their suitability for the evolution of reality.
4. Public hearings are held with a periodicity defined according to the nature of each process, properly advertised in the main media, addressed to the interested and affected parties, and in

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other adequate media, so that these parties can express their opinion regarding any proposals that have been or will be made.

5. The conclusions and recommendations of the public consultations and hearings referred to in this article, which are included in the Resettlement Plan, take the form of minutes.
6. The minutes of the public consultations and hearings are approved by the competent bodies, referred to in article 10 of these Regulations.
7. The approval or disapproval of the conclusions and recommendations of the minutes referred to in the previous paragraph shall be justified, through an opinion of the body supervising the Territorial Planning area, after having heard the Technical Resettlement Monitoring and Supervision Committee.

Article 14

Right to Information

1. The interested and affected parties have the right to information about the contents of the studies with respect to the resettlement process.
2. In order to stimulate and allow public participation in the process, the entities responsible for its preparation shall disseminate the main aspects of the plan in question, through adequate means of information for each context and provide all relevant documentation for consultation by the interested parties.
3. The Public Administration bodies have the obligation to respond to the requests for clarification referred to in the previous paragraph, in the same way in which these were presented to them, as well as to examine and take a position on the observations, suggestions and recommendations presented during the public participation process, within fifteen working days from the date of the request.
4. The dissemination of the following aspects is compulsory, through all means deemed necessary:
 - a) The decision to start the process, identifying the objectives to be aimed at;
 - b) Information to the Territorial Planning sector about the start of the resettlement process;
 - c) The start and duration of the public consultation phase and the respective conclusions;
 - d) The implementation mechanisms used.

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CHAPTER II

Procedures for the Preparation of a Resettlement Plan

SECTION I

Procedures

Article 15

Resettlement Plan

1. The preparation and approval of a Resettlement Plan precedes the issue of an environmental licence under the environmental legislation.
2. For the purpose of these Regulations and with adequate adaptations, the Resettlement Plan is equivalent to the Detailed Plan defined under the Territorial Planning legislation.
3. The Resettlement Plan is an integral part of the Environmental Impact Assessment Process, according to Appendix I of Decree 45/2004 of 29 September, which approves the Environmental Impact Assessment Regulations.

Article 16

Resettlement Model

1. The resettlement process is subject to the following model:
 - a) Organised housing plot with infrastructures;
 - b) Housing with at least type III characteristics (three bedrooms), with an area of 70 m².
2. The houses defined in the previous paragraph are built with conventional material (stonework) and according to an approved design.
3. The housing projects shall follow the social and cultural characteristics of the resettlement place.
4. During house building the preservation of the vegetation shall be guaranteed.

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5. The continuation of the performance of subsistence activities shall be guaranteed in the resettlement places, according to the cases, or income generation programmes shall be defined.
6. The resettlement process is accompanied by the establishment of access roads, a water supply system, sanitation, electrification, health post, school, day-care centre, market, shops, police station, leisure and recreation sites, sports facilities, worship and meeting places.
7. In resettlement places there shall be areas reserved for the practice of agriculture, cattle breeding and other activities.

SECTION II

Environmental Characteristics and Criteria for the Definition of Plots

Article 17

Environmental Characteristics

1. The environmental characteristics to be considered in the resettlement place are the following:
 - a) Soil permeability;
 - b) Water table level;
 - c) Inclination of the terrain;
 - d) Storm water drainage;
 - e) Soil fertility.
2. Resettlement is prohibited in:
 - a) Areas with significant environmental impacts, such as the occurrence of erosion and areas prone to being flooded;
 - b) Protected areas under specific legislation.

Article 18

Criteria for the Definition of the Housing Plot in the New Area

1. The following criteria are considered for the definition of the size of the housing plot:
 - a) Suitability for construction, with an inclination not higher than 10%, areas without a high water table;

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- b) In urban areas the area of the plot shall not be less than 800 m²;
 - c) In rural areas the area of the plot shall not be less than 5,000 m²;
 - d) Front access to the access road;
 - e) Natural ventilation;
 - f) Access to water and other infrastructures;
 - g) Access to social facilities.
2. In case the physical-natural conditions are not favourable for the establishment of a drinking-water supply system, an improved latrine shall be built at a minimum distance of 10 metres from the house.
 3. In rural areas physical spaces for vegetable production and the breeding of poultry and other animals shall be guaranteed.

SECTION III

Phases for the preparation of the Resettlement Plan

Article 19

Preparation of the Resettlement Plan

The phases for the preparation of the Resettlement Plan are the following:

- a) Collection and analysis of physical and socioeconomic data;
- b) Preparation of the Resettlement Plan;
- c) Preparation of the Action Plan for the implementation of the resettlement project.

Article 20

Data Collection and Analysis

1. Data collection in the area of the project or undertaking includes the following aspects:
 - a) Identification and demarcation of the area of intervention, considering whenever possible the areas that are nearest the area of the project or undertaking;
 - b) Quantification of the affected families and their socioeconomic profile;
 - c) Physical-environmental characterization;
 - d) Current occupancy;

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- e) Identification of the needs and preferences of the affected population.

2. The socioeconomic studies to be carried out shall focus on:

- a) The current situation of the affected families;
- b) Social organization and leadership structure of the community of which the affected families are part;
- c) Vulnerable and dependent groups;
- d) Standard characteristics of the families, including a description of the organization of the production systems, work and basic information about the way of life;
- e) Potential social impacts of the resettlement.

3. In the scope of the provisions of clause d) of the previous paragraph, the following relevant data are included:

- a) production and income levels obtained from formal and informal economic activities, as well as the standards of living, without prejudice to the health status of the population to be resettled;
- b) size of the expected total or partial losses of the assets, the physical or economic size of the affected people;
- c) survey of the forms of access to land, housing, water, roads, social services, schools and health centres;
- d) quantification of the family members and their degree of kinship;
- e) family and/or social relationship between them;
- f) system of occupancy of the building (owner, occupier, lodger, granted);
- g) verification of the number of families under the same roof;
- h) length of stay in the house;
- i) number of contributors to family income;
- j) sex of the household head;
- k) schooling of the occupiers of the house, emphasizing those contributing to family income;
- l) number of children, elderly and disabled persons;
- m) the most vulnerable groups, elderly, households headed by women, widows and youths, shall be heard in order to guarantee their rights;
- n) type of fuel used for the preparation of food;
- o) participation of the family in the social organization of the community.

Article 21

Preparation of the Resettlement Plan

1. The preparation of the Resettlement Plan includes the following aspects:

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- a) Analysis of the socioeconomic profile of the affected households;
- b) Evaluation and analysis of their tangible and intangible goods;
- c) Definition of the quantitative and qualitative degree of damage;
- d) Definition of the compensation criteria;
- e) Presentation of solutions and technically and economically viable alternatives that allow the continuation or improvement of the affected households' current standard of living.

2. For the purpose of the provisions of clause a) of the previous paragraph, affected households refer to households of the departure site and of the resettlement place.

Article 22

Action Plan for the Implementation of the Resettlement Plan

The preparation of the Action Plan shall include the following items:

- a) Institutional Matrix – shall present the bodies involved in the preparation and implementation of the plan, their competences and responsibilities, clearly specified and disseminated in the community;
- b) Schedule – shall present the time for carrying out the tasks and shall serve as an important control, monitoring and evaluation instrument for the resettlement process;
- c) Budget – in addition to the expenses concerning the construction of groups of houses and infrastructures, the budget shall include the payment of indemnities and other charges inherent in the process.

Article 23

Public Consultation

1. The preparation and implementation of the Resettlement Plan includes the organisation of at least four public consultations, advertised in the main media and at the intervention sites.
2. The dissemination of this process, through the means deemed adequate to guarantee public participation, with a view to collect comments, suggestions or recommendations concerning the draft Resettlement Plan, constitutes a guarantee of citizens' right to information, particularly on the part of the affected or interested people.
3. For each public consultation the respective minutes shall be drawn up and signed by the members of the Technical Resettlement Monitoring and Supervision Committee,

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representatives of the affected persons and the proponents, and shall be posted in the usual places for public information.

CHAPTER III

INSPECTION, TRANSGRESSIONS AND PENALTIES

Article 24 Inspection

The resettlement process is subject to inspections carried out by the Environmental Inspection, without prejudice to other inspections in the light of specific issues.

Article 25 Transgressions

1. The violation of the provisions of these Regulations constitutes an administrative transgression.
2. An administrative transgression, punishable with a fine and without prejudice to the application of other sanctions stipulated in the general law, occurs in the following cases:
 - a) Hampering or obstruction of an inspection – fine at the value of 500,000.00 MT to 1,000,000.00 MT;
 - b) Resettlement without due authorization from the competent authorities – fine at the value of 2,000,000.00 MT to 5,000,000.00 MT;
 - c) Non-fulfilment of the approved Resettlement Plan – fine at the value 10% of the value of the project or undertaking.

Article 26 (Scaling of the fines)

1. When applying administrative sanctions, aggravating and mitigating circumstances of the transgression are taken into consideration.
2. Aggravating circumstances of a transgression are the following:

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- a) The seriousness of the transgression;
 - b) Recidivism in the practice of the transgression, in similar projects;
 - c) When the Resettlement Plan is not implemented due to the exclusive fault of the transgressor.
3. Mitigating circumstances of a transgression are the following:
- a) The agent is a first-time transgressor;
 - b) Prompt collaboration with the agents of authority.
4. Should any of the above-mentioned circumstances occur, the punishment applicable to the transgression is doubled or halved.

Article 27

Collection of the fines

1. The payment of the fines is made in the respective tax area through the presentation of the appropriate form.
2. The transgressor has thirty days to pay the applied fine, from the date of reception of the notification, under penalty of the case being forwarded to the tax collection court, for the purpose of enforced collection.

Article 28

Updating and destination of the fines

1. The amounts of the fines stipulated in these Regulations are updated by the Ministers supervising the Territorial Planning and Finance sectors.
2. The amounts obtained from the payment of fines have the following destination:
 - a) 40% for the State Budget;
 - b) 60% for the Environment Fund.
3. The Environment Fund subsidizes the expenses of the Technical Resettlement Monitoring and Supervision Committee, up to 20% of the percentage defined in clause b) of paragraph 2 of this article.