

**REPUBLIC OF MOZAMBIQUE  
COUNCIL OF MINISTERS**

Decree nº 55/2008

Of 30<sup>th</sup> of December

As a result of the changes introduced by Law 23/2007, of 01 August, the Labor Law, and to better respond to the new demands of the country's economic and social development, it has become necessary to define new mechanisms and procedures for contracting foreign citizens.

Based on Article 269, together with Paragraph 3 of Article 33, both of Law 23 /2007 of 01 August, the Council of Ministers decrees:

Article 1

The regulation for the mechanisms and procedures for contracting of foreign citizens in Mozambique, which is part of the present decree, is approved.

Article 2

Decree 57/2003, of 24 December, Decree 26/99, of 24 May and all legislation which contradicts the present regime, are hereby revoked.

Approved by the Council of Ministers, on 2<sup>nd</sup> December 2008.

Let it be published.

The Prime Minister, Luísa Dias Diogo

## **Regulation for the Mechanisms and Procedures for Contracting Foreign Citizens**

### **CHAPTER I**

#### **Object and scope of application**

##### **Article 1 (Object)**

The present regulation establishes the mechanisms and procedures for contracting foreign citizens in the national territory.

##### **Article 2 (Scope of application)**

1. The contracting of foreigners by national and foreign employers is subject to authorization by the Minister who oversees the area of labor, or the entity to which the Minister delegates, except in cases foreseen in Article 5.
2. The provisions of the preceding paragraph are applicable to Embassies in the case of workers contracted outside the scope of Diplomatic and Consular Relations as well as to administrators, directors, managers, proxies, and to representative offices of foreign companies in relation to workers or delegates of such representations.
3. Private employment agencies may only contract foreign citizens in accordance with the quota or work authorization regimes.
4. The contracting of managers, proxies and representatives is subject to the quota regime and subsequently to the work authorization regime.

### **CHAPTER II**

#### **General conditions for the contracting of foreigners**

##### **Article 3 (General conditions)**

1. Employers must do the most they can to create conditions for the integration of Mozambican workers in positions of greater technical complexity and in management and administrative positions in companies.
2. The provisions of the present Regulation are without prejudice to the existing rules granting foreigners authorization to enter and remain in Mozambique.

## **CHAPTER III**

### **Contracting under the quota system**

#### Article 4

#### **(Conditions for communicating admission)**

1. Under the quota regime the employer may employ foreigners subject to communication to the Minister of Labor, or entities delegated by the Minister, within fifteen days of having admitted the foreign employee.
2. The communication of admission, a model of which is annexed to the regulation, must indicate the degree of realization of the quota.
3. In the calculation of the number of foreigners to be admitted under the quota the rounding up of numbers is not permitted.
4. Small companies may employ one foreign citizen, even if the total number of national workers is less than ten

#### Article 5

#### **(Quota regime)**

1. Based on the classification of the company, the employer may employ foreign citizens, in accordance with the following quotas:
  - a) Five percent of the total workforce, for large companies;
  - b) Eight percent of the total workforce, for medium companies;
  - c) Ten percent of the total workforce, for small companies.
2. For the purposes of the preceding paragraph the following apply:
  - a) *Large company*: employing more than one hundred workers;
  - b) *Medium company*: more than ten and up to a maximum of one hundred workers;
  - c) *Small company*: employing up to ten workers.
3. The number of workers to be considered corresponds to the average number of workers employed during the previous calendar year.
4. In the first year of activity, the number of workers to be considered is the number on the day of start-up of activity.

#### Article 6

#### **(Formalities)**

The communication must be submitted to the entity which oversees labor in the province in which the foreign citizen is employed, together with the following documents:

- a) two copies of the communication letter, the model of which is attached hereto, communicating the admission of the foreign citizen and the degree of fulfillment of the quota;
- b) three copies of the employment contract;
- c) quittance certificate issued by the National Institute of Social Security (*Instituto Nacional de Segurança Social*);
- d) quittance certificate issued by the entity responsible for finance;
- e) named list of workers (*relação nominal*) for the previous calendar year, in the first communication made;
- f) certified copy of the passport or Residence Identification Document for Foreign Citizens (*Documento de Identificação de Residência do Estrangeiro* or *DIRE*);
- g) Deposit slip proving payment of a fee corresponding to three times the minimum wage in force for the company's area of activity.

Article 7  
**(Reply)**

The communication referred to in this chapter shall be verified at the time it is presented, and a document confirming its receipt shall be drawn up immediately in the presence of the bearer thereof and tendered thereto.

**CHAPTER IV**  
**Contracting under the quotas provided in investment projects**

Article 8  
**(Conditions)**

1. In investment projects approved by the Government which provide for the employment of foreigners in greater or lesser number than the quota regime, a work authorization is not required, and is replaced by the requirement to communicate the employment of a foreigner within 15 days of their entry into the country.
2. The previous provision is without prejudice to special regimes in force in industrial free zones (*zonas francas*)

Article 9  
**(Formalities)**

The communication that foreign citizens have been contracted, under the scope of investment projects approved by the Government, shall be made in accordance with the terms of Article 6 of the present Regulation.

Article 10  
**(Burden of proof)**

The employer shall submit, along with the communication, a copy of the investment project approved by the Government that cites the number of foreigners it is authorized to employ.

Article 11  
**(Reply)**

The communication shall be verified in accordance with Article 7 of this regulation.

**CHAPTER V**  
**Short term work**

Article 12  
**(Formalities and regime)**

1. Short-term work is considered to be work for periods not longer than 30 consecutive or interspersed days, in the same year, by foreign citizens including those already under contract to the parent company or its subsidiaries in other countries.
2. Short-term work is exempt from work authorization as foreseen in paragraph 2 of Article 1 of the present Regulation.
3. The employer or its representative must submit, in advance, to the entity responsible for labor in the province where the foreign citizen is to work, a communication in duplicate including the identity and qualifications of the employee, the reason for contracting the employee, the activities they will perform, and the precise start and end dates for their activities.
3. This communication is verified in accordance with Article 7 of the present Regulation.
4. Short term work does not fall within the quota system and is exempt from payment of fees.

Article 13  
**(Extension)**

1. When duly justified by the employer the short term work period may be extended but never for longer than 90 days in one year.
2. Authorization, or not, of extension is decided by the entity responsible for labor at provincial level.

**CHAPTER VI**  
**Contracting through work authorization**

SECTION I  
Requirements and formalities for work authorization

Article 14  
**(Conditions for work authorization)**

1. The contracting of foreign citizens is done by means of an application addressed to the Minister responsible for labor.
2. The employment of a foreign worker, who shall have the required academic or professional qualifications, may only take place provided there are no national citizens with those qualifications, or that they are insufficient in number.
3. The authorization to employ foreigners is also conditional on proof that the provisions of this regulation have been respected.

Article 15  
**(Formulation of application and time periods)**

1. The application referred to in Paragraph 1 of the preceding article is submitted to the entity responsible for labor matters in the province in which the foreigner is to be employed.
3. The written reply shall be given within a maximum period of 15 days, counting from the date on which the application is received.

Article 16  
**(Application contents)**

1. The application for the authorization for a foreign citizen to work, the model of which is attached hereto, must contain:
  - a) the name, headquarters and type of activity of the applicant [employer];
  - b) the identity of the foreign citizen for whom the authorization is being requested, their category, duties, position to be held or functions to be undertaken;
  - c) grounds for the application.
2. Together with the application the following must be presented:
  - a) three copies of the work contract;
  - b) certificate of academic or technical / professional qualification of the foreign citizen to be employed and document proving professional experience;
  - c) quittance certificate issued by the National Institute of Social Security (*Instituto Nacional de Segurança Social*);
  - d) quittance certificate issued by the entity responsible for finance;
  - e) opinion of the union delegate, union committee or sectoral union;
  - f) deposit slip proving payment of a fee corresponding to ten times the minimum wage in force in the company's sector of activity.
3. The opinion of the union delegate, union committee or sectoral union shall refer to the relevance, or not, of the application.
4. For academic qualification certificates acquired abroad, a certificate of equivalence must be issued by the Ministry of Education.

Article 17  
**(Specialized work)**

1. The contracting of foreign citizens for work in non-governmental organizations, scientific research, teaching, and other areas of specialized technical assistance will be determined by order of the Minister responsible for labor, after hearing the entity responsible for the relevant sector.
2. For the purposes of the preceding paragraph, the application process shall be organized in accordance with Article 16 of this Regulation, to which the opinion of the entity responsible for the area in question shall also be added.

SECTION II  
Work contract

Article 18  
**(Contract contents)**

1. The work contract, dated and signed by both parties, must contain the following clauses:
  - a) identification of both parties;
  - b) duties or activities agreed;
  - c) work place;
  - d) contract duration;
  - e) remuneration and form of payment;
  - f) start and end date of the contract.
- 2) Any amendment to or alteration of the contract must be communicated to the provincial labor authority in the province in which the foreign citizen is employed, and an addendum signed.

Article 19  
**(Contract duration)**

1. The work contract may be signed for a maximum period of two years, renewable based on the submission of a new application.
2. Regardless of the number of renewals the contract of a foreign employee may never become an indeterminate period contract.

Article 20  
**(Termination of contract)**

In case of termination of the work contract, for whatever reason, the employer must inform the labor and immigration authorities in the province where the citizen foreign

was employed, in writing, not more than fifteen days from the date of contract termination.

## **CHAPTER VII**

### **Inspection and penalties**

#### Article 21 **(Inspection)**

The General Inspectorate of Labor is responsible for overseeing compliance with the present Regulation.

#### Article 22 **(Penalties)**

1. The non-observance of the legal rules relating to the regime for contracting foreign labor in Mozambique is punishable by suspension and a fine of between five and ten times the monthly salary of the foreign worker in relation to whom the violation occurred.
2. In calculating the fine if the employer refuses to divulge the salary of the illegal foreigner, the Labor Inspectorate shall use the highest salary paid by the employer for the purpose.
3. The failure to communicate referred to in Article 20 of the present Regulation is punishable by a fine of five times the minimum wage in force in the company's sector of activity.
4. The repeated practice of the same violation, within one year of the date of notification of the most recent violation, is considered an aggravated offense and the fines applicable are increased to double their normal minimum and maximum.
5. In case of violation of the principles of the Constitution of the Republic and the other laws and rules in force in the country, the foreign citizen's right to work may be revoked by order of the Minister of Labor.

#### Article 23 **(Emoluments)**

The revenue resulting from the payment of fees foreseen in the present regulation shall be divided as follows: 60% to the State Budget and 40% for expenses relating to documentary procedures in the relevant area.



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**Model documents to be used:**  
Please see separate, Word document