

Legal Framework



For Construction
Licensing in
Mozambique

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giz Programa Pro-Econ

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1 INTRODUCTION

This booklet is one of a series aimed at helping investors do business in Mozambique. It is based on the idea that informed investors can more easily follow the law, and the conviction that the rule of law is the best guarantor of property and of orderly and sustained development.

The series has been developed jointly by a number of institutions, including GIZ Pro-Econ (Ambiente Propício para o Desenvolvimento Económico Sustentável), GIZ PRODER), Projecto GERENA (Gestão de Recursos Naturais), CFJJ (Centro de Formação Jurídica e Judiciária), SAL & Caldeira Lda. and ACIS, with support from various government departments as relevant to the content of the booklet in question. By combining the experience of these institutions, we hope to give investors clear, practical advice with a sound basis in law.

This booklet is aimed primarily at companies and individuals interested in constructing property or infrastructure, or undertaking public works on behalf of the government but is also a tool for those from the public sector promoting economic development in Mozambique. However the booklet cannot be all things to all people and with that in mind its main focus is on enabling investors to construct their premises and infrastructure, and enabling contractors to work on public and private construction projects in Mozambique.

As we developed the booklet at times we disagreed over what was the “proper” procedure. On further investigation we noted that this is because in some instances matters are handled differently in different parts of the country. While the sources of law governing most procedures are standardised at national level, local interpretation can vary. These differences are rarely of major significance but we felt it important, since this is a guide book of sorts, to note these differences. We have therefore taken the procedures as followed in Sofala Province as our baseline and, where we are aware of them, have made note of any differences in the way procedures are handled elsewhere in the country.

A number of additional legal requirements are mentioned in the booklet, such as the requirements for incorporation of a company, contracting with the government and payment of taxes. These are complex subjects in their own right and some are the subjects of other booklets in this series. Where relevant we have opted not to give detailed treatment to these questions here but recommend that the reader consults the other titles in this series, which are available to download from ACIS’ web site, www.acismoz.com.

In this, the English language version of the booklet we have been faced with the choice of using terms in English or in Portuguese. We have opted to introduce both terms together and then to use the Portuguese term. While this may at first seem inconvenient to those who are not familiar with Portuguese in the longer run we believe it will help readers to become familiar with the basic terminology for construction in Mozambique. A glossary of the terms used in Portuguese is included.

While we have tried our best to be accurate, we may have made some mistakes, and we certainly made some omissions. Also, law and public administration are dynamic

subjects, and it is very likely that in the near future, some law or regulation described herein will be changed. We hope to correct the mistakes and supply the omissions in a next edition, so please do tell us of any that you find. In the meantime, the detailed nature of the subject matter and ordinary prudence both compel us to disclaim liability for those errors or omissions. In cases of doubt, readers would do well to consult legal counsel.

We hope that you find this booklet and the others in the series useful. Mozambique is a wonderful country and, as an entrepreneur creating wealth and employment, you have an important role to play in building it. Our role is to help you do yours. Força!

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A note about footnotes: This booklet is not designed for lawyers, and while we hope that it will also be of use to them we have taken the view that footnotes, where included should be easily accessible to the average reader who does not have legal training. Therefore we have provided the formal citation of pieces of legislation in the text where they first occur. Subsequent references use the “name” of the legislation, for example the Private Construction Regulation etc.

2 GLOSSARY OF TERMS

Please find below a list of some of the terms you will encounter when engaging in construction in Mozambique. Defined terms are set forth in bold typeface.

Alvará	Company trading or operating license, also a license for a construction company indicating the category and classification of work the contractor can undertake
Assinatura Reconhecida	Signature on a document compared to that in an identity document and stamped as corresponding thereto, by the Notary .
Balcão Único	One Stop Shop. These entities have been created in provincial capitals. So far they receive licensing applications for commercial and industrial licenses and for import and export permits though under new regulations their role is to be expanded to cover other procedures in the incorporation and registration process including possibly receiving documents pertaining to immigration.
Boletim da Republica	The official gazette of the Government of Mozambique, in which laws and regulations, as well as companies' articles of association, must be published.
Certidão de Quitação	Certificate of no impediment issued by the Ministry of Finance or its local representative, indicating that the certified individual or organisation does not have any fiscal debt
Certidão de Registo Comercial	Certificate of commercial registration of a company, sometimes called the certidão comercial.
Comissão de Inscrição	Registration Committee – committee responsible for the approval of applications for a construction alvará
Conservatória de Registo	In Maputo commerce and property registration are handled by distinct registries, the Conservatório de Registo Comercial (actually designated Conservatória de Registo das Entidades Legais) and the Conservatório de Registo Predial. Elsewhere the conservatories are co-located and known as “Conservatória de Registo”
Cópia autenticada	Copy of a document compared to the original and stamped as corresponding thereto by the Notary .
CPI	Government's Investment Promotion Centre
DUAT	The Right of Use and Enjoyment of Land - Direito de Uso e Aproveitamento de Terra
EAS	Simplified Environmental Assessment - Estudo Ambiental Simplificado
EIA	Environmental Impact Assessment - Estudo de Impacto Ambiental
Estatutos	The articles of association of a company, supplying the rules by which corporate life and the relationship between the quotaholders will be conducted.
INSS	National Social Security Institute
MICOA	The Ministry for the Coordination of Environmental Action - Ministério para a Coordenação de Acção Ambiental
MOPH	Ministry of Public Works & Housing - Ministério de Obras Públicas e Habitação
Notary	The Provincial Notary Department, responsible for the preparation of

	public deeds (including for the incorporation of companies), official validation of certain other legal acts, and authentication of signatures and documents, among other duties. In Maputo, there are a variety of notarial offices distributed around the city.
NUIT	Número Único de Identificação Tributária, or tax registration number. The NUIT is sometimes also referred to as the VAT registration number. The NUIT must be clearly printed on all invoices and receipts, as well as being shown on any invoices and receipts submitted into the company accounts. Individuals' personal tax identification numbers are also referred to as NUITs .
OEM	Mozambican Order of Engineers - Ordem de Engenheiros de Moçambique
Unidade Funcional de Supervisão das Aquisições – UFSA	The government body responsible for oversight of the Procurement Regulation. The Unit for the Supervision of Acquisitions

3 BACKGROUND TO CONSTRUCTION IN MOZAMBIQUE

A number of pieces of legislation provide the legal context and background for construction in Mozambique. These include the 2005 Procurement Regulation, legislation governing building codes, and the licensing of companies and individuals to engage in public and private works. In addition other areas of legislation such as the land, labour and tax also impact on the construction sector. Certain aspects of this legislation are complex, and while we have endeavoured to simplify where possible, we encourage the reader to seek advice from legal counsel in cases of doubt.

In Mozambique construction is broadly divided between public and private construction, both being regulated and in some cases requirements overlapping. For the sake of simplicity we have followed this broad division in the structure of this booklet.

3.1 CONSTRUCTION LEGISLATION

In 1995 the Ministry of Public Works & Housing (*Ministério de Obras Públicas e Habitação* – MOPH) was created (Presidential Decree 8/95 of 26 December). This ministry, and its subordinate institutions is responsible for, among other things, the contracting and oversight of public works, promoting the construction of residential housing, and promotion of the development of the construction sector¹. MOPH approves construction in areas not within municipal boundaries and provides technical opinions on large projects undertaken within municipal or district administration boundaries.

Since the creation of MOPH a raft of legislation has been introduced to regulate the licensing of construction contractors and other technicians, the inspection and quality of works, types of contracting and so on. In addition legislation has been passed which permits the direct administration and licensing of private construction (something which was not previously possible when all property was nationalized). MOPH has opted to retain some colonial legislation guiding the construction of urban buildings (Legislative Diploma 1976 of 10 May 1960), as well as updating legislation to the realities of modern Mozambique.

Construction is divided into private and public works. Decree 2/2004 of 31 March, the Regime for Licensing Private Construction defines private works as those which are not undertaken by local, municipal or national government. Companies with partial state ownership and public service concessionaires are also held to undertake private works unless a specific ministerial decree provides otherwise. Works undertaken either wholly or partially by local, municipal or national government are considered public works, and are undertaken in accordance with a specific regime in conjunction with the Procurement Regulations approved in Decree 54/2005, of 13 December. The procurement regulations permit a number of different types of tender for public works.

Additionally other areas of legislation may overlap with that of construction, and specific sectors such as mining, fisheries and tourism have their own legislation regulating construction standards and specifications. Therefore, in cases of doubt the reader would

¹ Presidential Decree 8/95 of 26 December
The Legal Framework for Construction in Mozambique

do well to consult with counsel, before beginning any construction or construction-related activity.

3.2 OTHER RELEVANT LEGISLATION

As noted above, various other areas of legislation overlap with the construction sector. This section explores some key areas, but please note that it is not exhaustive and in cases of doubt the reader would do well to seek qualified counsel.

3.2.1 Procurement

In 2005 the Government introduced new legislation regulating the contracting of public works, supply of goods and provision of services to the State. The regulation (Decree 54/2005 of 13 December) was introduced with a view to streamlining procedures which had previously been the subject of various, at times overlapping, pieces of legislation, and to bringing state procurement of public works in line with international norms and standards.

With the introduction of the Procurement Regulation all public works procured by the government at all levels (national, provincial, district and municipal as well as companies in which the State holds 100% of the capital, where the financial activities of any of the aforementioned entities are linked to the State budget²) including procurement using funds from donor governments is to be undertaken in accordance with the requirements provided in the Regulation. The Procurement Regulation also regulates consultancies, such as those for drawing up plans for or supervising and inspecting public works³. While some exceptions continue to exist in the main it is the Procurement Regulation which guides all business relationships between construction contractors in the public sector and those in the public sector procuring their services.

The government body responsible for oversight of the Procurement Regulation is the Unit for the Supervision of Acquisitions (*Unidade Funcional de Supervisão das Aquisições – UFSA*). Please also note that the web site www.concursospublicos.gov.mz includes details of tenders currently open, adjudication of completed tenders and details of past tenders undertaken under the new procurement legislation, and is therefore an important site for all those wanting to do business with the government.

The Procurement Regulation requires that all procurement procedures abide by a number of principles including legality, public interest, transparency, openness, equality, competitiveness, impartiality and sound financial management⁴. In addition procurement processes must be decentralised wherever possible as indicated by UFSA, and must strive to optimise the benefits of procurement (for example through collective purchasing)⁵. These are described in detail in the publication in this series entitled “The Legal Framework for Procurement of Public Works, Goods and Services by the Government in Mozambique”, available to download from www.acismoz.com

3.2.2 Land

The right to use the land or premises on which construction is to take place is an essential prerequisite for construction to take place. Land acquisition is a complex matter

² Decree 54/2005 of 13 December (the Procurement Regulation), Article 2

³ Procurement Regulation, Article 1

⁴ Procurement Regulation, Article 4, paragraph 1

⁵ Procurement Regulation, Article 4, paragraph 2, clauses a) and b)

in most jurisdictions and Mozambique is no exception. Land in Mozambique is the property of the State and may not be sold, mortgaged or otherwise alienated. The land use right conferred by the State through the Land Law is known as the “*Direito de Uso e Aproveitamento de Terra*” or “DUAT”. In English this is translated as the Right of Use and Enjoyment, but throughout this guide we use the term DUAT to refer to this State conferred right. A DUAT is important both for the State and for its holder because it guarantees legal possession of a tract of land, and where documented, provides formal proof of this possession and enables the State to organise its land cadastre.

The Land Law itself applies to both urban and rural land⁶ while the Land Law Regulation applies principally to rural land. Legislation specifically governing the allocation of land in urban areas was introduced at the end of 2006⁷. In those urban areas with an organized land cadastre, access to land is regulated by municipal ordinance (*postura*) or DUAT conceded by the district administration.

While land itself cannot be sold, mortgaged or otherwise alienated, the buildings and other improvements on that land may be mortgaged or alienated by the person who holds the rights to the underlying land. Buildings and improvements, and therefore the land which underlies them, are dealt with in two distinct ways⁸:

- *Prédio urbano* - literally an “urban building” but actually a legally defined concept which does not depend on the location of the building;
- *Prédio rústico* – literally a “rustic building” but actually an identified land area the structure on which has no economic utility distinct from the land, income derives mainly from the land and the function of the buildings is in respect of the use of the land.

Urban land is requested from the cadastre department of the relevant municipal authority and authorized by the mayor. Application procedures depend on municipal by-law and differ from municipality to municipality. But with the recent approval of the Urban Land Decree, in December 2006, such discrepancies should be reduced⁹.

In the case of land situated outside the boundaries of a municipality but within an area which has a cadastre service and an urban plan (a district capital for example), authorisation is given by the District Administrator¹⁰. Note that such areas are currently rare in Mozambique.

One frequently asked question merits mention here: “Can foreigners acquire urban property?” The answer to this lies in a series of legislation namely: Decree-Law 5/76 of 05 February, Law 5/91 of 09 January, Ministerial Diploma 50/94 of 13 April, Decree 2/91 of 16 January, Ministerial Diploma 97/92 of 08 July, and Ministerial Diploma 152/92 of 30 September. The simple answer to the question is that foreigners (which for the purpose includes companies with less than 51% national shareholding) cannot own property which has belonged to the State or which was nationalised.

After Independence many properties were nationalised. Those that were not were those which belonged to Mozambican nationals at the time and those which belonged to

⁶ Land Law, Article 23

⁷ Decree No. 60/2006 of 26 December

⁸ Land Regulation, Article 1, paragraphs 4 and 5 and Articles 15 and 16.

⁹ Decree 60/2006 of 26 December

¹⁰ Land Law, Article 23

foreigners who remained in Mozambique post-independence¹¹. From 1991 forwards (beginning with Law 5/91 of 09 January) the State began the process of denationalising its property assets with a view to encouraging property ownership by nationals. Decree 2/91 of 16 January, which regulated Law 5/91, makes it clear that property acquired by nationals under the denationalisation process cannot later be alienated in favour of foreigners¹². Decree 2/91 further stipulates that companies with less than 51% national shareholding are also considered as foreign for this purpose¹³. This is further reinforced by Ministerial Diploma 152/92 of 30 September which requires that those applying for denationalised property must provide proof of nationality¹⁴.

Note that Ministerial Diploma 97/92 of 08 July does not apply the same criteria to ruins and unfinished properties which belong to the State or were nationalised¹⁵. In this case, a national company is defined as one that is incorporated and has its headquarters in Mozambique¹⁶. Thus, companies majority-owned by foreigners may acquire ruins or unfinished buildings that had once been State property, as long as these companies have been incorporated and have their headquarters in Mozambique.

As noted above, the acquisition of land or premises for construction or renovation is complex. Acquisition of land, principally in rural areas, is dealt with in greater depth in the booklet in this series entitled “The Legal Framework for Recognising and Acquiring Rights to Rural Land in Mozambique” available to download from www.acismoz.com

3.2.3 Environment

Many construction projects in Mozambique require an environmental license before they can begin, indeed any activity which may affect the environment requires authorization¹⁷. Authorisation is based on evaluation of the potential impact of the planned activity to determine its environmental feasibility, and concludes with the issuing of an environmental license by MICOA (The Ministry for the Coordination of Environmental Action - *Ministério para a Coordenação de Acção Ambiental*)¹⁸. Mozambique’s Environment Policy and Law require that management of the environment should be based on preventive systems, and the Environment Law and its regulations establish a set of preventative requirements that must be fulfilled prior to the issuance of an environmental license.

Annexes I, II and III of the Environmental Impact Assessment Regulation (Decree 45/2004 of 29 September) divide potential activities into three categories based on their likely impact on the environment:

- Category A: Is subject to a full Environmental Impact Assessment (*Estudo de Impacto Ambiental* - EIA);
- Category B: May be subject to a Simplified Environmental Assessment (*Estudo Ambiental Simplificado* - EAS);
- Category C: Is subject to the norms of good environmental management

¹¹ Decree Law 5/76 of 05 February, Article 3 paragraph 1 and Article 6 paragraphs 1 and 2.

¹² Decree 2/91 of 16 January, introduction and article 16.

¹³ Decree 2/91 of 16 January, Article 1 paragraph 2 in conjunction with Law 5/76, Article 4 paragraph 2.

¹⁴ Ministerial Diploma 152/92, paragraph 4.2, clause d and paragraph 4.3.

¹⁵ Ministerial Diploma 97/92 of 08 July, Article 1 paragraphs 1, 2 and 3.

¹⁶ Ministerial Diploma 97/92 of 08 July, Article 2 paragraph 2.

¹⁷ Environment Law, Article 15, paragraph 1

¹⁸ Environment Law, Article 15, paragraph 1

Any other activities, not listed in these Annexes, but susceptible to cause a significant negative impact on the environment are subject to pre-evaluation by MICOA. This pre-evaluation consists of a preliminary environmental analysis which categorizes the proposed activity and determines the type of environmental evaluation to be carried out¹⁹. As a result of the pre-evaluation MICOA may: reject the implementation of the activity proposed; categorize the activity and consequently determine the type of environmental evaluation to be undertaken, namely the EIA or the EAS; or exempt the activity from the need to undertake an EIA or EAS²⁰.

MICOA can also request the audit of existing activities which began before the current legislation came into force, or which were not originally covered by the legislation. It should be noted that any significant change to an existing activity (including for example change of activity, construction, expansion of activity or extension of existing premises) which already has an environmental license is subject to a new environmental impact evaluation.

Application for an environmental license is made during the preparation and planning part of a project. It is worth noting that the issuing of certain other licenses (such as industrial operating license, tourism license and final CPI approval, though not a construction license) is dependent on prior issuing of an environmental license. Where the legislation is silent on specific details pertaining to activities licensed by MICOA, the terms of the environmental license itself will supply the details of obligations imposed based on the Environmental Impact Evaluation.

Further details about environmental licensing can be found in a booklet in this series entitled “The Legal Framework for Environmental Licensing”, available on www.acismoz.com

3.2.4 Municipalities

As noted in section 3.2.2 municipal authorities are responsible for licensing acquisition to land. In addition to the Urban Building Regulation (Legislative Diploma 1976 of 10 May 1960) individual municipalities also have their own by-laws (*posturas*) regulating construction within the city limits. When undertaking a construction project in an urban area it is important to ensure that not only national legal requirements, but also local ones are taken into consideration.

3.2.5 Labour

In addition to the general legal provisions which apply to employment in Mozambique, several specific provisions have been created to facilitate the type of contracting and employment required to enable the national construction sector to develop.

For example the Labour Law (Law n^o 23/2007 of 01 August) provides for fixed term contracts which may only be used for specific and non-permanent tasks. The maximum duration of any fixed term contract is two years. All contracts that are not for an explicit fixed period are considered indeterminate period contracts. Fixed term contracts may be renewed twice, with special, more liberal rules applying to small and medium companies²¹.

¹⁹ Environmental Impact Assessment Regulation, Article 1, paragraph 28 and Article 7, paragraph 1

²⁰ Environmental Impact Assessment Regulation, Article 7, paragraph 2

²¹ Labour Law Article 40, paragraph 1, Article 42 paragraph 1,

The temporary tasks for which fixed term contracts may be used include carrying out works, projects or other defined temporary activities, including civil construction, public works and industrial repairs on a construction contract basis (*regime de empreitada*).

In addition construction has its own sectoral minimum wage which applies to those employed within the sector.

Further details about employment, including models of the type of contract described above are available in “The Legal Framework for Employment in Mozambique” available from www.acismoz.com

3.2.6 Mining

The Mining Law and its subordinate legislation provides a number of specific technical requirements for the construction and closure of mines. In addition Ministerial Diploma 124/99 of 17 November regulates the mining of materials for construction projects. In order to extract materials for construction the operator must be duly licensed by the Ministry of Mineral Resources and Energy, at either national or provincial level depending on the scale of activity. All such activities must have an environmental license and must submit management plans. This regime includes the removal of sand from inland water resources such as rivers and lakes. In case of doubt readers involved in construction related to the mining sector, or planning to source their own materials such as sand, rock or clay for construction would do well to seek legal counsel to ensure that they have the relevant permissions and licenses in place before beginning operations.

3.2.7 Decentralisation

Mozambique is becoming increasingly decentralised. This means that authority for decision-making and management of funds is being vested at provincial and district level. The decentralisation process is not being rolled out at the same speed throughout the country and practices in certain provinces or districts often do not reflect changes in legislation. The time-lag between enactment and implementation of legislation is often more notable the further one is from central government authority. This means that as a matter of good practice, if not of law those seeking to build in a rural area would be advised to talk to the District Administrator of the area in which the site is located. In the preparation of this booklet we have heard of many instances in which application processes are referred from provincial to district level and vice versa with staff being unsure as to who should make specific decisions or indeed being offended because they were not informed of the proposed application.

Given the complexity and sensitivity of the decentralisation process it is unlikely that such occurrences will reduce in the short term. Therefore it is incumbent on the applicant to work with both district and provincial level government representatives to ensure that everyone is aware of the proposed project, and thus to reduce the likelihood of delays.

4 PUBLIC CONSTRUCTION

Construction contractors must be licensed by the Ministry of Public Works under the terms provided in Ministerial Diploma n° 83/2002 of 22 May, the Public Works and Civil Construction Contractors Licensing Regulation, and Decree n° 68/99 of 5 October

with amendments introduced in Decree n° 29/2001 of 11 September, the Regulation of Activities of Public Works and Civil Construction Contractors.

Contractors are broadly divided into two categories: those licensed to undertake public works and those licensed to undertake civil works. Civil construction contractors must be part of a company or commercial representation incorporated and specifically licensed in Mozambique to undertake construction. There is no specific legal framework for the contracting of engineers, contractors or other technicians. However, when requesting a construction license for private works, a declaration of commitment to oversee the work is required along with a copy of license of the person responsible for the oversight. Works may be overseen by a contractor, a technician (in supervised construction by the owner itself) or the person undertaking the project. (Decree n° 2/2004, 31 March, the Private Works Licensing Regime).

The regulations governing public works are more restrictive, requiring specific licensing for contractors and technicians to undertake such works, and requiring that contracting be undertaken in accordance with the government's procurement regulation. This section deals with these requirements.

Public works construction contracting can be undertaken by a company registered either collectively or under an individual name²² subject to the company having the relevant operating license²³.

Public works contractors may be considered national or foreign for the purposes of licensing and bidding on work. To be considered national a company must²⁴:

- Belong to a Mozambican citizen, or to a foreigner who has resided in Mozambique for more than ten years, in the case of single-person companies;
- Have the majority (i.e. 50%²⁵) of the company's social capital held by Mozambicans.

Foreign companies are any that are not national, and these may not operate in Mozambique without the relevant authorization²⁶. Such companies must either be duly incorporated and registered in Mozambique or must have a legal representation in the country²⁷. Foreign companies subcontracting to companies registered in Mozambique for a period of less than six months have the right to a temporary license rather than a full operating license²⁸.

Companies have the right to form groupings, joint ventures and consortia to undertake specific public works projects²⁹. The members of the consortium must each be licensed to undertake works sufficient to the value of the part of the work they will undertake and the leader of the consortium must be licensed to a value greater than that of the entire project³⁰. Consortium and association agreements must be concluded in writing³¹.

²² Regulation of Activities of Public Works and Civil Construction Contractors, Article 1, paragraph 2

²³ Regulation of Activities of Public Works and Civil Construction Contractors, Article 1 paragraph 3

²⁴ Regulation of Activities of Public Works and Civil Construction Contractors, Article 2

²⁵ Decree 29/2001 of 11 September

²⁶ Regulation of Activities of Public Works and Civil Construction Contractors, Article 3

²⁷ Regulation of Activities of Public Works and Civil Construction Contractors, Article 3, paragraph 3

²⁸ Regulation of Activities of Public Works and Civil Construction Contractors, Article 3, paragraph 5

²⁹ Regulation of Activities of Public Works and Civil Construction Contractors, Article 5

³⁰ Regulation of Activities of Public Works and Civil Construction Contractors, Article 5, paragraphs 5 & 6

³¹ Regulation of Activities of Public Works and Civil Construction Contractors, Articles 5, 6 & 7

Various other rules also apply, including that a consortium or association using foreign companies as well as national can only be appointed based on an international tender³².

Public works construction contractors must be licensed, and the construction contractor's license is called an "*alvará*". The *alvará* is valid for 12 months³³. An applicant for an *alvará* must apply in writing, indicating the name of the firm, the type of works to be undertaken, the category, subcategory and class of license required. All documents submitted must be in duplicate³⁴. On receipt the government representative will ensure that the application is complete and will issue a receipt³⁵. Applications are addressed to the Minister of Public works and submitted through the relevant Provincial Directorate of Public Works for the province in which the applicant is based, and a receipt is provided as proof of submission³⁶. The application letter must include the full details of the applicant as follows³⁷:

- Company (collective) – name, headquarters address, tax registration number (*NUIT*), full name, profession, ID number, and position of the legal representatives;
- Company (individual name) - name, headquarters address, tax registration number (*NUIT*), full name, profession, ID number, and position of the owner.

Categories and classes of license correspond to the value of the works proposed to be undertaken. The applicant must provide a signed declaration of capability and prove technical capacity by providing details of the organisation's permanently employed technical team, equipment available to undertake the work and financial capacity. The requirement is that the applicant fulfils the criteria of trust, technical and financial capacity³⁸.

Trust is established by demonstrating that the company and its individual owners, administrators or directors are not³⁹:

- Prohibited from trading;
- Under judicial or penal sentence;
- Involved in corruption or obstruction of the work of government inspectors;
- Bankrupt;
- Owing debts to the tax or social security departments.

This is therefore established by providing declarations signed by the owners, administrators and directors of the company to the effect that they are not found in any of the situations prohibited in the law, and by obtaining a certificate of no impediment (*certidão de quitação*) from the Ministry of Finance and Social Security Institute (INSS).

Technical capacity is evaluated based on⁴⁰:

- Permanent technical staff available;

³² Regulation of Activities of Public Works and Civil Construction Contractors, Article 5 paragraph 5

³³ Regulation of Activities of Public Works and Civil Construction Contractors, Article 8

³⁴ Ministerial Diploma 53-A/2002 of 17 April, Article 19

³⁵ Ministerial Diploma 53-A/2002 of 17 April, Article 19

³⁶ Public Works and Civil Construction Contractors Licensing Regulation, Article 1

³⁷ Public Works and Civil Construction Contractors Licensing Regulation, Article 1, paragraph 2

³⁸ Regulation of Activities of Public Works and Civil Construction Contractors, Article 9

³⁹ Regulation of Activities of Public Works and Civil Construction Contractors, Article 10 and Public Works and Civil Construction Contractors Licensing Regulation, Article 2

⁴⁰ Regulation of Activities of Public Works and Civil Construction Contractors, Article 11 and Public Works and Civil Construction Contractors Licensing Regulation, Article 3

- Specialist staff and equipment;
- Type of organization and size;
- Company's portfolio of previous work and staff CVs.

Contractors are expected to have qualified senior technical staff in sufficient quantity for the type of *alvará*⁴¹. These staff must be registered either with MOPH or the relevant professional body in Mozambique⁴². Technical staff and managers indicated by a contractor on their *alvará* application may not be used by another contractor as a basis for applying for an *alvará* and if the person leaves the employ of the contractor on whose *alvará* he is listed, MOPH must be advised immediately⁴³. Technical capacity is therefore demonstrated by submitting a full list of technical staff including their CVs, copies of ID documents, proof of registration with MOPH and a signed declaration by each individual that they work for the company. In addition the applicant must provide a detailed description of the company's equipment including capacity, potential, date of manufacture, operational condition, location, and proof of ownership and registration. All document photocopies and each signature must be authenticated by a Mozambique-recognised notary (see Section 6.2 for further information about notaries)⁴⁴.

Financial capacity is evaluated based on⁴⁵:

- Declarations from banks and other financial institutions;
- Demonstration of sufficient available capital and other economic/financial indicators as required.

In addition to the proof of trust, technical and financial capacity the applicant must demonstrate the right to operate in Mozambique. Therefore the following must also be submitted⁴⁶:

- Proof of definitive commercial registration (*Certidão de Registo Definitivo*) issued by the Commercial Registry (*Conservatória de Registo Comercial*). This certificate must indicate that the company is solely incorporated and registered for the purposes of undertaking construction;
- List of full names and qualifications of the owners, managers, directors and administrators of the company along with copies of their ID documents and signed copies of their CVs;
- In the case of companies in individual name, the applicant must include details of civil status, antenuptial contract (if relevant) and, in the case of foreigners, proof of having resided for ten years continuously in the country.

The *alvará* is issued based on the criteria fulfilled by the applicant and indicates the category of license (i.e. the type of work which can be undertaken) and the classification (i.e. the maximum financial value of work which can be undertaken)⁴⁷. The *alvará* is applied for in writing, indicating the category and classification applied for and with all

⁴¹ Regulation of Activities of Public Works and Civil Construction Contractors, Articles 12 & 13

⁴² Regulation of Activities of Public Works and Civil Construction Contractors, Article 12, paragraph 2

⁴³ Regulation of Activities of Public Works and Civil Construction Contractors, Article 12 paragraphs 5 & 6

⁴⁴ Public Works and Civil Construction Contractors Licensing Regulation, Article 3

⁴⁵ Regulation of Activities of Public Works and Civil Construction Contractors, Article 14 and Public Works and Civil Construction Contractors Licensing Regulation, Article 4

⁴⁶ Public Works and Civil Construction Contractors Licensing Regulation, Article 6

⁴⁷ Regulation of Activities of Public Works and Civil Construction Contractors, Article 15

the relevant proofs (as mentioned above) provided⁴⁸. The *alvará* being approved, it is published in the government gazette (*Boletim da República*)⁴⁹.

Any alterations to the basis on which the *alvará* was conceded (including changes of office, shareholding, key technical staff etc.) must be notified to MOPH within 60 days of the change taking place⁵⁰. *Alvarás* are updated annually, and unless circumstances have changed or the contractor wants to change category or classification, renewal is carried out by sending a letter indicating that nothing has changed in respect of the *alvará* to the provincial Registration Committee (*Comissão de Inscrição*)⁵¹. If a contractor wants to alter the category or classification of the *alvará* this is done by means of a new application to the *Comissão de Inscrição*⁵². Under no circumstances may an *alvará* be transferred to another contractor⁵³.

The *Comissão de Inscrição* exists at both national and provincial level⁵⁴. It comprises representatives of various departments of government as well as a representative of the contractors association⁵⁵. The committee meets at least twice per month and all its meetings are minuted⁵⁶. It is responsible for assessing the eligibility of applications for *alvarás*, renewing *alvarás*, and ensuring compliance with the licensing system⁵⁷.

Alvarás are categorized and classified as follows⁵⁸:

Category	Classification
I – Buildings & Monuments	1. Buildings
	2. Monuments
	3. Reinforced concrete structures
	4. Metal structures
	5. Demolition
	6. Rough carpentry and clearing
	7. Frames and glass
	8. Painting and decorating
	9. Cleaning and conservation
	10. Pre-fabrication and installation of buildings
	11. Throwing concrete for special purposes
	12. Isolation and waterproofing
	13. Lighting installation
	14. Plumbing and drainage
II – Water / hydraulic works	1. River hydraulic works
	2. Marine hydraulic works
	3. Drainage
	4. Water usage
	5. Dredging
	6. Hydro-mechanised equipment (pumps etc)

⁴⁸ Regulation of Activities of Public Works and Civil Construction Contractors, Article 16

⁴⁹ Regulation of Activities of Public Works and Civil Construction Contractors, Article 16

⁵⁰ Regulation of Activities of Public Works and Civil Construction Contractors, Article 17 and Public Works and Civil Construction Contractors Licensing Regulation, Article 15

⁵¹ Regulation of Activities of Public Works and Civil Construction Contractors, Article 18

⁵² Regulation of Activities of Public Works and Civil Construction Contractors, Article 19

⁵³ Regulation of Activities of Public Works and Civil Construction Contractors, Article 20

⁵⁴ Ministerial Dispatch of 31 August 2001, Ministerial Dispatch of 10 January 2002, Ministerial Diploma 53-A/2002 of 17 April,

⁵⁵ Ministerial Diploma 53-A/2002 of 17 April, Articles 2 & 3

⁵⁶ Ministerial Diploma 53-A/2002 of 17 April, Articles 4-6

⁵⁷ Ministerial Diploma 53-A/2002 of 17 April, Article 10

⁵⁸ Regulation of Activities of Public Works and Civil Construction Contractors, Articles 25 & 26 and Public Works and Civil Construction Contractors Licensing Regulation, Article 16, and Annex 1

	7. Equipment incorporated into hydraulic works
	8. Plumbing and drainage systems
III - Communication	1. Roads
	2. Railways
	3. Aerodromes
	4. Metal bridges
	5. Reinforced concrete bridges
	6. Protection and painting of bridges
	7. Brick bridges
	8. Wood bridges
	9. Non-specialised artisan work
	10. Road signage and equipment
	11. Rail signage and equipment
	12. Air signage and equipment
	13. Tunnels
IV - Urbanisation	1. Roads
	2. Parks & gardens
	3. Plumbing and drainage
	4. Signs and equipment
	5. Land preparation
V - Installations	1. High tension electrical line
	2. Medium tension electrical line
	3. Telecommunications
	4. Electronic security systems
	5. Lighting and services installation
	6. Lifts
	7. Ventilation & air conditioning
VI – Foundations and water capture	1. Geological and geotechnical survey
	2. Foundations for hydraulic works, including injection and consolidation
	3. Special bridge and building foundations
	4. Posts
	5. Support walls including injection and consolidation
	6. Boreholes

Registration in one category may allow for work in various subcategories as well⁵⁹. However unless this is expressly allowed, contractors must not work outside the category and classification on their *alvara*⁶⁰. Registration in a given category automatically qualifies the contractor to bid on works in that category and classification provided the value of the works does not exceed the value for which the contractor is licensed⁶¹.

The values for different levels of construction licensing are as follows⁶²:

Class	Maximum value of each work (in thousand meticais)⁶³	Minimum company capital (in thousand meticais)
1 st	350	20
2 nd	850	50
3 rd	2,500	150
4 th	5,000	500
5 th	15,000	1,500

⁵⁹ Public Works and Civil Construction Contractors Licensing Regulation, Article 17

⁶⁰ Public Works and Civil Construction Contractors Licensing Regulation, Article 17

⁶¹ Public Works and Civil Construction Contractors Licensing Regulation, Article 18, paragraph 1

⁶² Public Works and Civil Construction Contractors Licensing Regulation, Annex 3

⁶³ Please note: this legislation was published before the recent currency change which was three zeros removed from the metical, therefore the values here are corrected to take this change into account

6 th	50,000	5,000
7 th	Over 50,000	10,000

In addition, for each type of *alvará* there is a minimum requirement in respect of technical personnel available as follows⁶⁴:

Class	Permanent Technical Team	Technical Director
1 st	1 civil builder or similar	Civil builder or similar
2 nd	1 civil builder or similar with 5 years experience	Civil builder or similar with 5 years experience
3 rd	1 mid-level engineer and 1 civil builder	Mid-level engineer
4 th	1 engineer or architect and 1 mid-level engineer	Engineer, architect or mid-level engineer with five years experience
5 th	2 engineers or 1 engineer and 1 architect or 1 engineer and 2 mid-level engineers	Engineer or architect with over five years experience
6 th	3 engineers and 1 mid-level engineer or 2 engineers, 1 architect and 1 mid-level engineer	Engineer or architect with over five years experience
7 th	5 engineers and 2 mid-level engineers or 3 engineers, 1 architect and 2 mid-level engineers with more than 5 years experience	Engineer or architect with over five years experience

The cost of the licenses is as follows⁶⁵:

Class	Maximum value for this class (in thousand meticais)⁶⁶	Fee charged in %	Value charged (Mtn)
1 st	350	0.001	350
2 nd	850	0.0009	765
3 rd	2,500	0.00008	2,000
4 th	5,000	0.00065	3,250
5 th	15,000	0.00035	5,250
6 th	50,000	0.00025	12,500
7 th	Over 50,000	0.000275	13,750

Temporary licenses may be issued for between six months and five years depending on the circumstances⁶⁷. In addition a number of requirements apply to international contractors winning international tenders, and to foreign companies subcontracting for short periods to local contractors⁶⁸. In the following cases temporary licenses may be issued, situations include⁶⁹:

- Contractors appointed through international tender funded by donor credit conceded to the government;
- Contractors from countries with bilateral agreements with Mozambique for the purpose;
- Contractors contracted by companies under the investment legislation, whereby such companies are undertaking public works;

⁶⁴ Public Works and Civil Construction Contractors Licensing Regulation, Annex 4

⁶⁵ Regulation of Activities of Public Works and Civil Construction Contractors, Article 36 and Ministerial Diploma 101/2005 of 18 May

⁶⁶ Please note: this legislation was published before the recent currency change which was three zeros removed from the metical, therefore the values here are corrected to take this change into account

⁶⁷ Public Works and Civil Construction Contractors Licensing Regulation, Articles 7 & 8

⁶⁸ Public Works and Civil Construction Contractors Licensing Regulation, Articles 9 & 10

⁶⁹ Regulation of Activities of Public Works and Civil Construction Contractors, Article 24

- Duly registered branches of foreign companies which have sufficient technical equipment and expertise for particularly large and complex works and which have been registered in the country for more than 10 years.

Tenders for public works must specifically indicate the categories and classifications of *alvará* eligible for the project⁷⁰.

Non-compliance with any aspects of the legislation in respect of licensing can lead to fines, suspension or cancellation of the *alvará*⁷¹.

In addition to annually renewing their license, contractors must, by 31st May each year provide the following to MOPH⁷²:

- Notarised copy of accounts submitted to Ministry of finance for previous fiscal year;
- Full report of all works undertaken including their current status;
- Full report of all works in progress including current status;
- Declaration in the case of works that have not been completed, with respect to the reasons for non-completion;
- *Certidão de quitação* from Ministry of Finance and INSS;
- Organizational chart with names of key technical staff.

In addition to licensing contractors MOPH is also responsible for ensuring that works are carried out to adequate quality and provides a number of guidelines for its inspectors and for those undertaking the contracting and supervision of works. These guidelines are provided in the following:

- Decree 17/98 of 29 April – the Public Works Inspectors Regime;
- Ministerial Diploma 4/2002 of 09 January – Internal Regulation of the Public Works Inspectorate;
- Ministerial Diploma 121/2003 of 05 November – Instructions for the Contracting of Public Building Projects;
- Ministerial Diploma 52/2004 of 17 March – Instructions for the Contracting of Supervision of Public Works.

These generally describe the procedures to be followed when contracting, inspecting and supervising public works and should be taken into consideration by any reader involved in those specific functions.

5 PRIVATE CONSTRUCTION

There is no specific legal framework defining the norms for contracting for private works. However, it is necessary to verify that engineering service providers, contractors and other technicians are correctly licensed to carry out their activities in Mozambique. Licensing to undertake public, civil and private works follows the procedure laid out in Section 4 above, which is to say that for private construction the contractors used must

⁷⁰ Regulation of Activities of Public Works and Civil Construction Contractors, Article 33

⁷¹ Regulation of Activities of Public Works and Civil Construction Contractors, Articles 37-39

⁷² Public Works and Civil Construction Contractors Licensing Regulation, Article 14, paragraph 2

be duly licensed by MOPH, and have the relevant *alvará* for the work they will undertake. Also, if it is intended to undertake or manage construction itself, then a license to construct and, following construction, a usage license must be obtained.

In order to undertake private works (which encompass not only construction but also reconstruction, extension, alteration and demolition of buildings as well as any works which require topographical alteration) a construction license is required. Following construction, a usage license is also required. Construction licenses may be issued by national, provincial, district or municipal authorities depending on the scope of the works and the jurisdiction. The licensing body is responsible for licensing construction, for supervising the works and for licensing usage.

In order to begin the process the applicant should approach the local authorities to obtain information about specific planning and construction regulations and requirements. The applicant must also have the right to use the land or building in question before it can apply for a construction license (see Section 3.2.2 above).

5.1 SUPERVISED CONSTRUCTION BY THE OWNER

Supervised construction by the owner is authorized by the municipal government or district administration⁷³. The applicant is considered to be going to directly administer the works if they have exclusive right to the land, provide the materials, equipment and labour, and contract the necessary technical support to ensure the work is carried out according to specification⁷⁴. In addition the applicant may only have one project licensed at a time and two years must expire between the completion of one project and the application for the next license⁷⁵. The applicant can contract technical support but this must be provided by independent specialists, duly registered with MOPH, and not specialists contracted by companies undertaking public works contracting⁷⁶.

Supervised construction can be used as a method of construction for works which will be licensed as residential, commercial or industrial, in certain cases⁷⁷. This method can be used for construction of residential housing by an individual when⁷⁸:

- A declaration is given that the building is for the applicant's personal use;
- The buildings are not part of a condominium;
- The total surface area, bounded by the external walls, is not more than 200m².

Building must have contracted technical support when⁷⁹:

- The area covered is more than 150m²;
- The building has more than one floor;
- The building has flagstone flooring and/or reinforced girders;
- The licensing authority so decides based on the nature of the soils and drainage in the area.

⁷³ Ministerial Diploma 51/2001 of 26 April, Articles 8 & 9

⁷⁴ Ministerial Diploma 51/2001 of 26 April, Article 2

⁷⁵ Ministerial Diploma 51/2001 of 26 April, Article 3

⁷⁶ Ministerial Diploma 51/2001 of 26 April, Article 3, paragraphs 3 & 4

⁷⁷ Ministerial Diploma 51/2001 of 26 April, Article 4

⁷⁸ Ministerial Diploma 51/2001 of 26 April, Article 5, paragraph 1

⁷⁹ Ministerial Diploma 51/2001 of 26 April, Article 5, paragraph 2

For commercial purposes this form of licensing can only be used for establishments owned by nationals and where the building is relatively small and designed solely for commercial purposes⁸⁰. In the case of industrial usage construction can only be directly administered if the owner has the relevant construction *alvará*⁸¹.

The licensing procedure for supervised construction is as detailed below in Section 5.2.

When undertaking construction under direct administration a sign must be displayed on the site which indicates the name of the owner, the name of the contractor, the construction license number and the name of the technical supervisor (where relevant)⁸².

For all other types of private construction the Private Works Licensing Regime (Decree n° 2/2004, 31 March) applies.

5.2 OTHER PRIVATE WORKS

Private works include not only construction but also reconstruction, extension, alteration and demolition of buildings as well as any works which require topographical alteration, and for any of these a construction license is required⁸³. Licensing is dispensed with when the work is of a purely decorative nature and does not affect the structure of the façades or in the inside of a building when the alterations do not lead to substantial structural changes⁸⁴.

Licensing is carried out either by the municipal authority or the district administration depending on the location of the site⁸⁵. If for any reason the local authority does not have the capacity to evaluate the application it may be referred to provincial or national level⁸⁶. In addition certain major projects are reserved for licensing at national level, including industrial premises, hotels, large scale commercial premises and spaces designed for large public gatherings⁸⁷. Licensing carried out at national level requires consultation with provincial and local levels but generally follows the same procedures described below⁸⁸.

Licensing is carried out in four stages⁸⁹:

- Project approval;
- License to construct;
- Supervision;
- Usage licensing.

Throughout the procedures all documents must be submitted in duplicate and document receipts are provided⁹⁰.

The provisional application is made by presenting⁹¹:

⁸⁰ Ministerial Diploma 51/2001 of 26 April, Article 6

⁸¹ Ministerial Diploma 51/2001 of 26 April, Article 7

⁸² Ministerial Diploma 51/2001 of 26 April, Article 10

⁸³ Private Works Licensing Regime, Article 2

⁸⁴ Private Works Licensing Regime, Article 4

⁸⁵ Private Works Licensing Regime, Article 5

⁸⁶ Private Works Licensing Regime, Article 14

⁸⁷ Private Works Licensing Regime, Article 41

⁸⁸ Private Works Licensing Regime, Articles 42-45

⁸⁹ Private Works Licensing Regime, Article 6

⁹⁰ Private Works Licensing Regime, Article 12, paragraph 2

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- a) request letter;
- b) written description of the works to be undertaken;
- c) map scaled 1:1000, showing the works site.

In the case of new builds or extension works the following must also be included:

- a) implementation plan scaled 1:200, showing the outlines of and identifying the buildings or construction to take place;
- b) details of foundations and number of floors;
- c) Total area and size (volume) of each building to be constructed.

Additional information requested must be provided within 30 days of request by the relevant authority. Revisions to the project may be requested so that it fits in with existing area plans⁹². The applicant may opt to begin immediately with submission of the request for approval of the project. This requires⁹³:

- a) Request letter in duplicate including the full identity of the applicant, residential or business address, type of works to be undertaken, and the purpose for which the construction will be used when complete;
- b) Notarised copy of the land use title (“DUAT”) in the case of new builds or title deed in the case of existing buildings;
- c) Excerpts from the summary plans and of the topographical plan, indicating also exposure to the sun;
- d) Architectural plans;
- e) Statement of liability by the architect;
- f) Definition of which will be private and which communal areas, where relevant.

The documents presented are analyzed at local level (municipality or district) with a view to correcting any inadequacies in the case file. This analysis must be completed within 30 days⁹⁴. Architectural approval follows this analysis and may take a further 60 days⁹⁵. Architectural approval being given, the applicant has a further period (as indicated by the licensing authority, and never less than 60 days) to present further information which can include a stability, excavation and containment plans, and private water and sanitation plans⁹⁶. This supplementary information must be accompanied by a statement of liability from the specialists who prepared the information and a written commitment to undertake the project within the terms of the law, given by the applicant⁹⁷.

Certain technical aspects which must be taken into consideration during construction are regulated by the General Regulation for Urban Building approved in Legislative Diploma 1976 of 10th May 1960 and the Guidelines for Construction and Building of 26th March 1956, which regulate aspects as diverse as suitability of land types for construction, internal layouts and free areas in buildings, foundations, types of structure, flooring and roofing, drainage, water supply and aesthetics. Certain specific municipal regulations may also apply and vary between municipalities. Given the complex technical nature of these various regulations if behooves the reader to seek specialist support in the development of plans for construction to ensure that all relevant aspects are taken into consideration.

⁹¹ Private Works Licensing Regime, Article 9

⁹² Private Works Licensing Regime, Articles 10 & 11

⁹³ Private Works Licensing Regime, Article 12

⁹⁴ Private Works Licensing Regime, Article 15

⁹⁵ Private Works Licensing Regime, Articles 16 & 17

⁹⁶ Private Works Licensing Regime, Article 18

⁹⁷ Private Works Licensing Regime, Article 19

Having received the supplementary information requested, the licensing authority will make its decision in 30 or 60 days for local and national authorities respectively⁹⁸.

Having been granted a construction license, the applicant must then request permission to construct. How this application is undertaken depends on whether the construction will be carried out by a contractor or through direct supervision. Direct supervision is permitted in specifically defined cases and is regulated by Decree 51/2000, of 26th April – the Direct Supervision of Private Works Regulation.

If the works is to be undertaken by a contractor an application composed of the following elements is submitted⁹⁹:

- a) Request letter;
- b) Copy of the authorization of the architectural plans;
- c) Cost estimate signed by the engineer responsible for the works;
- d) Copy of the contractor's license and a declaration stating that the contractor will undertake the works.

If the works is to be undertaken through direct supervision an application composed of the following elements is submitted¹⁰⁰:

- a) Request letter;
- b) Copy of the authorization of the architectural plans;
- c) Map of covered areas and cost estimate signed by the technician responsible for the construction;
- d) Declaration of commitment to oversee the project given by the technician or project implementer.

After issuance of the license to construct, the applicant has eight days to publicize the fact by erecting a sign on the site or building where construction will take place¹⁰¹.

Licenses are transmissible in certain cases, but will be suspended or revoked if infractions of the defined conditions are found¹⁰². Any alterations made to the original plan submitted, must be communicated to the licensing authority in writing and may lead to the requirement to suspend activities and submit a new licensing application¹⁰³.

During construction a book must be kept on site, in which the person responsible for the work must record key aspects of the progress. This book can then be inspected at any time by the relevant authorities¹⁰⁴.

When the works are complete they may not be occupied or used until a usage license has been issued. The applicant must request a usage license by means of a request letter, to which the construction license is annexed. The letter must also include a request for the works to be inspected. An inspection must take place within 30 days of receipt of the application, and following a successful inspection a usage license is issued¹⁰⁵.

⁹⁸ Private Works Licensing Regime, Article 20

⁹⁹ Private Works Licensing Regime, Articles 22 & 23

¹⁰⁰ Private Works Licensing Regime, Article 22

¹⁰¹ Private Works Licensing Regime, Article 28

¹⁰² Private Works Licensing Regime, Articles 24-27

¹⁰³ Private Works Licensing Regime, Article 31

¹⁰⁴ Private Works Licensing Regime, Article 32

¹⁰⁵ Private Works Licensing Regime, Articles 34 - 38

Licensing is subject to fees as follows¹⁰⁶:

Location	Type	Rate
Provincial capitals and Maputo	Construction	5-10Mt/m2
	Usage	1-2Mt/m2
Other cities & towns	Construction	3-6Mt/m2
	Usage	0.6-1.2Mt/m2
Villages and other settlements	Construction	1-3Mt/m2
	Usage	0.2-0.4Mt/m2

The sanctions for not complying with the requirements for licensing construction of private works are varied and serious, ranging from fines to demolition¹⁰⁷.

6 OTHER RELEVANT INFORMATION

6.1 REGISTRATION AS AN ENGINEER

The Mozambican Order of Engineers (*Ordem de Engenheiros de Moçambique*, or “OEM”), the nation’s professional engineering body, was created under Law n° 16/2002, of 26 June. The OEM registers and authorises the activity of engineers in Mozambique. The title “Engineer” may be used by anyone who has a full undergraduate degree (*licenciatura*) or equivalent in engineering and is enrolled with the OEM. When contracting engineers it is therefore necessary to determine that these qualifications are met.

6.2 NOTARIES

A “notarised signature” or recognised signature (*assinatura reconhecida*) is when the signature on a document is compared to that in the identity document of the signatory and stamped as corresponding thereto, by a Notary. The law allows that various Mozambican government departments (including embassies and consulates) can recognise signatures on documents¹⁰⁸. This service should be provided free of charge. However in practice this rarely takes place with departments referring signatories to the nearest Notary office.

Procedures at Notarial offices in Mozambique vary, with some being prepared to recognise signatures on the basis of being presented with the signed identity document of the signatory and others requiring the signatory to be personally present.

A fee is payable for the services of the Notary in recognising the signature.

In other legal jurisdictions the service of recognising a signature may be provided by a lawyer or other similar person. Where this is the case, in respect of documents being submitted to Mozambican embassies, consulates or the Immigration Service, the right of

¹⁰⁶ Private Works Licensing Regime, Article 56

¹⁰⁷ Private Works Licensing Regime, Articles 49-53

¹⁰⁸ Decree 30/01 of 15 October, Article 53

the lawyer to do this must also be demonstrated. In practice this may mean requesting the Ministry of Justice responsible for the jurisdiction to provide a statement that the person who recognised the signature is entitled to have done so. This statement must then be officially translated into Portuguese. This procedure is often complex, costly and time-consuming. Therefore wherever possible it is preferable to either have signatures recognised in Mozambique, or by a notary or similarly entitled person at a Mozambican embassy or consulate.

The same is true for authentication of photocopies of documents, which are subject to the same requirements before a notary in Mozambique.

