
REGULATION FOR THE MECHANISMS AND PROCEDURES FOR THE HIRING OF FOREIGN CITIZENS

A new Regulation for the Mechanisms and Procedures for the Hiring of Foreign Citizens ("**New Regulation**") has been published in the official gazette under Decree no.37/2016, of 31 August.

It shall enter into force on 29 November 2016, thus superseding Decree no.55/2008, of 30 December.

Although no fundamental alterations have been carried-out, the New Regulation covers certain matters previously left unaddressed, further details the existing regimes for the performance of work by foreign citizens in Mozambique and contains certain changes that are noteworthy due to their practical importance. These are highlighted hereunder:

General provisions

- 1. Hiring of foreign citizens as subsidiary to hiring national citizens.** Foreign citizens must only be hired if no national citizens, or not in sufficient numbers, are available for the position.
- 2. Formation and gradual substitution plan.** The employer must, as of its third year since starting operations, have a plan for the formation of national citizens and gradual substitution of foreign employees by national citizens.
- 3. The regimes for the performance of work by a foreign citizen in Mozambique.** The regimes under which foreign citizens may legally carry-out work in Mozambique remain (i) the short-term work regime, (ii) the quota regime and (iii) the employment authorization regime.

Short-term work

4. **Short-term work subject to a charge.** A charge corresponding to one (1) minimum monthly wage in force in the sector where the company is inserted must now be paid upon notification of performance of short-term work.
5. **Duration of short-term work.** Short-term work must not exceed 90 consecutive or interpolated days per year.

Quota regime

6. **Charge.** It is subject to a charge corresponding to five (5) minimum monthly wages in force in the sector where the company is inserted.
7. **Clearance Certificate Social Security.** The notification of the hiring of a foreign citizen under the quota system must now include a clearance certificate, which confirms that the company has no outstanding contributions to Social Security, which is valid for 30 days counted as of its date of emission.
8. **Terminations of employment agreements with nationals entail the termination of employment agreements with foreign citizens.** An employer that terminates agreements with national citizens must also terminate agreements with foreign employees, in a number corresponding to the quota existing following the reduction of national employees.

Employment authorization regime

9. **Charge.** It is subject to a charge corresponding to ten (10) times the minimum monthly wage in force in the sector where the company is inserted.
10. **Clearance Certificate.** The request for the hiring of a foreign citizen under the authorization regime must now include a clearance certificate, which confirms that the company has no outstanding contribution to Social Security, which is valid for 30 days counted as of its date of emission.

Other

11. **Sanctions.** The Regulation elaborates on the sanctions applicable to violations of its provisions:

- i. Failure to comply with the legal provisions concerning the hiring regime of foreign workforce is punishable with suspension and a fine of five to ten times the monthly salary earned by the foreign employee in relation to whom the offence is committed. The successive commitment of an identical offense, within one year counted as of the notification of the official report, is deemed aggravated, with the consequence that the applicable fines shall be doubled in their minimum and maximum.
 - ii. An employer which declares the hiring of nationals with the aim of enlarging the quota of foreign nationals, and, subsequently, does not hire them, shall be punished with suspension and a fine of five to ten monthly salaries earned by the foreign employee in relation to whom the offence is committed.
- 12.** The Regulation elaborates on events which might trigger the revocation of work permits and expands on revocation procedures:
- i. Ill treatment committed by foreign employee, such as aggravated physical assault against a national or foreign employee in the place of work;
 - ii. Serious injury against a national or foreign employee, based on race, colour of skin or any other seriously discriminatory attitude that offending honour, dignity, good name and image, in the place of work.
 - iii. Serious violation of the special rights of the working woman;
 - iv. Sentencing of a foreign citizen to a major prison sentence.