

NEW RULES APPLICABLE TO FOREIGN CITIZENS ENTERING, STAYING IN AND LEAVING MOZAMBIQUE

Following on from the Regulation of Law no. 5/93 of 28 December, which establishes the rules applicable to foreign citizens, Decree no. 108/2014 of 31 December was published and came into force on its date of publication. The Decree makes minor changes to the already existing rules on entering, staying in and leaving the country, and to the rights, duties and guarantees of foreign citizens.

I. INTRODUCTION OF NEW TYPES OF VISAS

The main change made by this Regulation is the introduction of four types of visa:

- Visa for sporting and cultural activities;
- Visa for investment activity;
- Visa for temporary stay; and
- Visa for crew transit.

Among the new types of visa referred to above, the temporary stay visa is granted to the foreign spouse and minor or disabled children of a foreign citizen who holds a work visa. This visa is to be used for the 60 days following the date it is issued and it allows its holder multiple entries and to stay in the country for a maximum period of one year,

which can be extended successively until the grounds on which the visa is granted no longer apply. It should be noted that the granting of this type of visa does not allow its holder to obtain a residence permit in the country. This demonstrates the reasoning behind the creation of the temporary stay visa, which is to facilitate the arrangements for family members of foreign citizens who carry on professional activity in Mozambique to stay in the country.

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Another significant change is the crew transit visa which is issued at border crossings and allows the transfer of crew from one ship to another or from ship to aircraft and vice versa. The visa must be requested in the 72 hours before the transfer operation and is valid for a 72-hour stay.

II. AMENDMENTS TO THE PREVIOUS RULES

Besides introducing the different types of visas, Decree no. 108/2014 of 31 December also introduces some amendments:

i) The Decree includes a specific article on the border visa that establishes the requirements for it to be granted. The border visa is granted at border crossings and is intended to allow entry into the country by foreign citizens coming from a country where the Republic of Mozambique has no diplomatic or consular representation. However, it is also possible for the border visa to be issued to a foreign citizen coming from a country where the Republic of Mozambique does have diplomatic or consular representation. This is possible when there is reciprocal treatment in relation to the entry of Mozambican citizens into that country, or upon the well-founded request of the citizen in question to the Directors of the Provincial Migration Services, who have jurisdiction over the border crossings that have power to issue

order visas. These visas are valid for 30 days, which cannot be extended, and they allow only one entry into the country.

ii) The Decree makes changes to the work visa and establishes that it can be used for a period of 60 days from the date it is issued. The work visa allows its holder to engage, temporarily, in a professional activity in Mozambique, and it allows multiple entries and stays in the country up to the end of the employment contract.

In the case of foreign workers contracted in the context of implementation of extractive industry projects, the application for the work visa must be made by the company in question and addressed to the minister responsible for the area of migration. The visa application must be accompanied by the work authorisation granted by the Minister of Work upon the recommendation of the Minister of Mineral Resources.

As a condition for the work visa to be granted, the employer must provide a guarantee which translates into a monetary value for any repatriation of the foreign citizen, as well as any member of his/her household, in the event of cancellation of the visa or termination of the employment relationship. The return of the guarantee payment is authorised as long as it is requested within 30 days of the date the foreign citizen exited Mozambique.

iii) The length of tourist, visitor and business visas has also been changed to 30 days, extendable up to 90 days. Previously, these visas were granted for a maximum period of six months, extendable.

iv) A change has also been made to the requirements for the criminal record certificate, a document that is necessary for any residence visa to be granted. This certificate must be issued by the appropriate authority in the country of the nationality of the applicant or in the place where the applicant has been resident for at least one year. The change lies in the fact that, under the previous rules, a period of two years was required.

v) In relation to residence permits, Decree no. 108/2014 has eliminated the non-permanent residence permit, as well as the work visa as a type of visa necessary to obtain a temporary residence permit. Therefore, under the new Regulation, the application for temporary residence is now submitted on the basis of the residence visa.

vi) Finally, the new Regulation sets the levels of fines to be applied to any foreign citizen who does not comply with the laws, regulations and migration rules, as those provided for in Law no. 5/93 of 28 December.

As mentioned at the beginning of this newsletter, the changes introduced by Decree no. 108/2014 of 31 December are not structural in nature. The legislature limited itself to reviewing some procedures and clarifying what was already happening in practice, but was regulated in other pieces of legislation.

However, there is a clear intention to impose greater control over the entry and exit of foreign citizens in Mozambique to ensure they comply with the provisions of this Regulation.

This newsletter was prepared by a multidisciplinary team made up of lawyers from GLM – Gabinete Legal Moçambique and lawyers from PLMJ. This team was brought together under an agreement for international cooperation and membership of PLMJ International Legal Network, in strict compliance with applicable rules of professional ethics. This Newsletter is intended for general distribution to clients and colleagues and the information contained herein is provided as a general and abstract overview. It should not be used as a basis on which to make decisions and professional legal advice should be sought for specific cases. The contents of this Newsletter may not be reproduced, in whole or in part, without the express consent of the author. If you should require further information on this topic, please send an email to tta.geral@glm-advogados.com.

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