

MOZAMBIQUE

November 2015 through January 2016

OIL & GAS

NEW PETROLEUM OPERATIONS REGULATIONS

Pursuant to the Petroleum Law enacted through Law No. 21/2014, of 18 August 2014, the Council of Ministers has now approved the new Petroleum Operations Regulations by means of Decree No. 34/2015, of 31 December 2015. Similarly to the previous now revoked Petroleum Operations Regulations – contained in Decree No. 24/2004, of 20 August 2004 -, the new statute regulates different matters relating to the award of rights and the conduct of oil and gas reconnaissance, exploration and production operations, as well as the construction and operation of oil and gas pipelines and other facilities for petroleum operations. It is worth highlighting the inclusion of some provisions relating to the domestic market supply, including with regard to the terms and conditions of the natural gas sales agreements to be entered into between the concessionaires and ENH – *Empresa Nacional de Hidrocarbonetos, EP*. The new Regulations are in force since 1 January 2016.

PETROLEUM OPERATIONS' SPECIFIC TAX AND FISCAL BENEFITS REGIME REGULATED

Besides having regulated the Petroleum Law, the Council of Ministers has also enacted Decree No. 32/2015, of 31 December 2015, whereby the Specific Tax and Fiscal Benefits Regime for Petroleum Operations set forth in Law No. 27/2014, of 23 September 2014, was regulated. The rules that stand out comprise those relating to the assessment and payment of Petroleum Production Tax ("IPP") to be paid by the concessionaires and the 50% reduction in IPP rates whenever the production is aimed for the development of the local industry and the sale is made to ENH – *Empresa Nacional de Hidrocarbonetos, EP*. Also worth of mention are the specific rules relating to the production sharing mechanism and Corporate Income Tax ("IRPC"), in particular in respect of the taxable income determination and the deductibility and amortization of costs and charges. The new Regulations came into force on 1 January 2016.

ENH WITH NEW BY-LAWS

Still as part of the legislative reform of the petroleum sector, through Decree No. 29/2015, of 28 December 2015, the Council of Ministers approved the new By-Laws of the national oil company ENH – *Empresa Nacional de Hidrocarbonetos, EP*, with a view to adapt them to the legal framework applicable to State-owned companies set forth in Law No. 6/2012, of 8 February 2012. The previous By-Laws of ENH, which had been approved by Decree No. 39/97, of 12 November 1997, have thus been repealed.

MINING

APPROVAL OF NEW MINING LAW REGULATIONS

By way of Decree No. 31/2015, of 31 December 2015, the Council of Ministers regulated the Mining Law – Law No. 20/2014, of 18 August 2014. New rules and procedures have thus been defined in respect of the award of the different types of mineral titles, including by way of public tender, and the conduct of mineral products prospecting, exploration, development, mining, processing and treatment activities. Although generic, it is worth to point out the express indication of the criteria allowing for the execution of a mining contract, on the basis of a Government-approved model, between the Government and the holders of prospecting and exploration licences or mining concessions. The new Mining Law Regulations is in force since 1 January 2016 and has revoked Decree No. 62/2006, of 26 December 2006, which had approved the former regulations.

REGULATIONS ON THE MINING ACTIVITY SPECIFIC TAX AND FISCAL BENEFITS REGIME

By way of Decree No. 28/2015, of 28 December 2015, the Council of Ministers approved the Regulations on Specific Tax and Fiscal Benefits Regime for the Mining Activity and revoked Decree No. 5/2008, of 9 April 2008. Procedures have thus been adopted for the application of the regime enacted through Law No. 28/2014, of 23 September 2014, in particular with regard to the assessment and payment of Mining Production Tax ("IPM"), Surface Tax ("ISS"), Corporate Income Tax ("IRPC") and the new Mineral Resource Profit Tax ("IRRM") created by said Law. This statute came into effect on 1 January 2016.

RULES ON MARKETING OF DIAMONDS, PRECIOUS METALS AND GEMS APPROVED

With a view to adopt certification of origin mechanisms for rough diamonds, precious metals and gems and rules for their marketing and monitoring in accordance with international requirements established within the scope of the Kimberley Process, Marketing Regulations for Diamonds, Precious Metals and Gems were approved by way of Decree No. 25/2015, of 20 November 2015. Rules relating to the award, validity, transfer and extension of marketing licences, as well as the rights and duties of the licence holders, have thus been defined. Additional rules are set forth with regard to the marketing, importation, exportation and transit of this type of minerals, including on the issuance of Kimberley Process certificate. The new rules will only come into force on 20 November 2016. To ensure the effective implementation of the new Regulations, on the same date the Council of Ministers further approved Decrees Nos. 26/2015 and 27/2015, whereby the Kimberley Process, Precious Metals and Gems Management Unit ("UGPK") and the National Council for the Kimberley Process, Precious Metals and Gems ("CNPCK") were respectively created.

INDUSTRIAL PROPERTY

INDUSTRIAL PROPERTY WITH NEW CODE

The Council of Ministers approved the new Industrial Property Code by means of Decree No. 47/2015, of 31 December 2015. The new regime for the protection of industrial property rights will come into effect on 30 March 2016 and repeals the previous Code enacted by Decree No. 4/2006, of 12 April 2006.

COMMUNICATIONS

POSTAL SERVICES LIBERALISED

Through Law No. 1/2016, of 7 January 2016, the Parliament approved the general bases applicable to the development and exploitation of postal services in the national territory and adopted the principle of market access on equal conditions with a view to ensure the liberalisation of postal services. However, a specific regime is provided for the universal postal service, which shall be ensured by one or more operators appointed by the Government, and certain activities and services are reserved for some postal services providers for reasons of public policy and security or general interest. The exploitation of postal services is subject to licencing and the prices to be charged for those services are subject to conditions or general principles governing the setting of tariffs established by the Government. One should also highlight the inclusion of anti-trust and consumer protection rules. The role of Postal Sector Regulatory Authority, as well as certain specific duties, are entrusted to the National Institute for Communications of Mozambique ("INCM"). The new Law came into force on 7 February 2016 and still has to be regulated by the Council of Ministers.

REGISTRATION AND NOTARIAL SERVICES

UPDATED FEE SCHEDULE FOR REGISTRATION AND NOTARIAL SERVICES

By means of Ministerial Statute No. 2/2016, of 6 January 2016, the Minister of Justice determined the update of the schedule of fees applicable to the services performed by registration and notary offices, which remained unchanged since 1998. This increase in registration and notary fees came into force on 22 January 2016.

BANKING AND FINANCE

EXCEPTIONAL REGIME FOR INTERBANK MONEY MARKET TRANSACTIONS

Through Ministerial Statute No. 4/2016, of 15 January 2016, the Minister of Economy and Finance determined an exemption of fees charged by the Mozambique Stock Exchange and the Securities Central in all transactions with Treasury Bonds used as collateral in the Interbank Money Market.

INTERBANK MONEY MARKET REGULATIONS AMENDED

Order No. 8/GBM/2015, of 31 December 2015, of the Central Bank amended the Interbank Money Market Regulations, approved by Order No. 7/GBM/2013, of 18 September 2013, so as to allow the use of Treasury Bonds as one of the types of eligible securities for market transactions.

FURTHER UPDATE OF MANDATORY RESERVES

By means of Order No. 9/GBM/2015, of 31 December 2015, the Central Bank determined a further adjustment to the base rate for mandatory reserves set forth in the Regulations on Calculation and Creation of Mandatory Reserves set forth in Order No. 2/GBM/2012, of 4 July 2012. Such base rate will henceforth be a minimum daily rate of 9% and applies to all reserves created as of November 2015.

NEW REGULATIONS ON TRANSACTIONS WITH FIXED-INCOME SECURITIES' REPURCHASE AND RESALE AGREEMENT

The Central Bank has approved, by way of Order No. 7/GBM/2015, of 31 December 2015, the new rules to be observed in transactions with fixed-income securities' repurchase and resale agreement. Order No. 6/GBM/2013, of 18 September 2013, has been revoked. One may single out the adoption of new formulas to be used in price and settlement value determination, as well as the listing of the eligible securities for this type of transactions.

INTERBANK CURRENCY MARKET WITH NEW RULES

In order to adapt the Interbank Currency Market ("MCI") to the current reality of the financial system, the Central Bank approved, via Order No. 10/GBM/2015, of 31 December 2015, a set of new MCI Regulations, thereby repealing Order No. 2/GBM/2011, of 29 December 2011.

LIMITS ON USE OF BANK CARDS ABROAD

By means of Order No. 11/GBM/2015, of 31 December 2015, the Central Bank has introduced limits on payments abroad using international bank cards. A maximum annual limit equivalent to MZN 700,000.00 has thus been set. Higher limits are permitted in duly reasoned cases and upon favourable decision from the Central Bank.

LABOUR AND SOCIAL SECURITY

NOMINAL LIST TABLE UPDATED

With the publication of Ministerial Statute No. 104/2015, of 27 December 2015, the Minister of Labour, Employment and Social Security approved the update to the table of the nominal list of national and foreign employees of private companies and public institutions, as per the form included in the annex to said statute. Rules applicable to the filling out, submittal and update of the nominal list, including the respective deadlines, have also been determined. Having come into effect on 28 November 2015, the new statute revoked Ministerial Statute No. 1/89, of 4 January 1989.

PROCEDURE FOR ENROLMENT OF SELF-EMPLOYED WORKERS WITH SOCIAL SECURITY SYSTEM

So as to enable the enrolment of self-employed workers with the Social Security System, the Minister of Labour, Employment and Social Security has determined the documents required for such purpose by way of Ministerial Statute No. 105/2015, of 27 November 2015.

STATE

LAW ON RIGHT TO INFORMATION REGULATED

Following the enactment of the Law on the Right to Information – Law No. 34/2014, of 31 December 2014 -, the Council of Ministers has now regulated the same via Decree No. 35/2015, of 31 January 2015. These regulations specify the public and private entities which are subject to the duty of providing information to interested citizens, public and private entities and media, as well as the scope of the information covered by that duty. Rules to be observed in the requests for information and their processing and decision are also defined.

AVIATION

CIVIL AVIATION TECHNICAL STANDARDS (MOZCAR PART 172)

The Council of Ministers approved by way of Ministerial Statute No. 103/2017, of 26 November 2015, the revised and updated 2nd edition of Part 172 of the MOZCAR Civil Aviation Regulations – on Air Traffic Management Services Organisation. The previous edition of such Part 172 of MOZCAR set forth in Ministerial n.º 117/2011, of 3 May 2011, was revoked.

CRIMINAL

CODES OF CRIMINAL PROCEDURE AND OF ENFORCEMENT OF SENTENCES AND OF PRIVATIVE AND NON-PRIVATIVE MEASURES TO BE REVISED

Through Resolutions Nos. 72/2015 and 73/2015, both of 22 October 2015, the Parliament mandated the Committee on Constitutional Affairs, Human Rights and Legality to undertake a revision of the Criminal Procedure Code and of the Code on Enforcement of Sentences and Freedom Privative and Non-Privative Measures. Drafts of the revised Codes shall be delivered until December 2016.

HEALTH

CREATION OF THE MEDICAL EMERGENCY SERVICE OF MOZAMBIQUE

By means of Decree No. 48/2015, of 31 December 2015, the Council of Ministers created the Medical Emergency Service of Mozambique ("SEMMO"). The SEMMO is responsible for the management, coordination, regulation, training, accreditation, monitoring and inspection of the activists relating to the Medical Emergency Integrated System.

For further information about the contents of this Legal News, please contact:

Paulo Pimenta: Paulo.Pimenta@pimentalawfirm.com

Pimenta e Associados
Rua Changamire Dombe (D. Diniz), n.º 14
Bairro de Sommerschield
Maputo - Mozambique
Tel.: +258 214 930 50 / +258 214 955 27/8
Fax: +258 214 930 42

www.mirandaalliance.com

MEMBERS PORTUGAL | ANGOLA | BRAZIL | CAMEROON | CAPE VERDE
DEMOCRATIC REPUBLIC OF THE CONGO | EQUATORIAL GUINEA
FRANCE | GABON | GUINEA-BISSAU | MACAU (CHINA) | MOZAMBIQUE
REPUBLIC OF THE CONGO | SÃO TOMÉ AND PRÍNCIPE | TIMOR-LESTE

LIAISON OFFICES UK (LONDON) | USA (HOUSTON)

© Pimenta e Associados, 2016. Reproduction is authorised, provided the source is acknowledged.
WARNING: The texts contained in this bulletin are provided for general information purposes only, and are not intended to be a source of advertising, solicitation, or legal advice; thus, the reader should not rely solely on information provided herein and should always seek the advice of competent counsel.
This bulletin is distributed free of charge to our clients, colleagues and friends. If you do not wish to continue receiving it, please reply to this e-mail.