

THE REPUBLIC OF MOZAMBIQUE

THE ASSEMBLY OF THE REPUBLIC

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The Constitution of our Nation confers on every citizen both the right to live in a balanced environment as well all the duty to defend this right. The realisation of this right necessarily requires the correct management of the environment and the elements of which it is made up as well as the creation of conditions which favourable to the health and well being of people, to the socio-economic and cultural development of communities and to the preservation of the natural resources which sustain them.

In these terms, and pursuant to article 135.1 of the Constitution, the Assembly of the Republic determines:

CHAPTER I

GENERAL DISPOSITIONS

Article 1

Definitions

For the purpose of the present law:

1. **Activity** : means any act undertaken on a private or public basis in respect of the use or exploitation of any environmental element; the application of productive processes or technologies; or the application of plans, programmes and legislative and regulatory instruments that affect or could affect the environment.
2. **Environment**: means the medium in which humans and other beings live and interact among themselves and with the medium itself, including:
 - a) air, light, land and water;
 - b) eco-systems, bio-diversity and ecological relationships;
 - c) all organic and inorganic matter;
 - d) all socio-cultural and economic conditions which affect the lives of communities;
3. **Associations for the Defence of the Environment**: means collective persons which have as their purpose the protection, conservation and valorisation of environmental elements. These associations may be international or national, regional or local.
4. **Environmental Audit**: means the documented and objective instrument for the management and the systematic evaluation of the operation and organisation of the management system and of the environmental control and protection processes.

5. **Environmental Impact Assessment:** means an instrument for preventive environmental management; it consists of the prior quantitative and qualitative identification and analysis of the beneficial and deleterious environmental impacts of a proposed activity.
6. **Bio-diversity:** means the variety and the variability of all the living organisms from all origins including, among others, terrestrial, marine and other aquatic eco-systems as well as the ecological complexes of which they are part. It is the diversity within each species between the species and the eco-systems.
7. **Environmental elements:** means the diverse elements which integrate the environment including air, water, soil, sub-soil, flora, fauna and all socio-economic and health related conditions which affect communities. It is the interaction of these elements which results in their equilibrium. Environmental elements are also currently designated as natural resources.
8. **Environmental Degradation:** means any negative change in the characteristics of the environment and includes, among others, pollution, desertification, erosion and deforestation.
9. **Deforestation:** means the indiscriminate cutting or destruction of forests and jungle without the appropriate replacement.
10. **Sustainable Development:** means development based on an environmental management which satisfies the needs of the current generation without compromising the equilibrium of the environment or the ability of future generations also to satisfy their needs.
11. **Desertification:** means a process of soil degradation which is natural or is provoked by the removal of the vegetation or the exploitative use which, owing to climatic conditions, results in the transformation of the soil into desert soil.

12. **Ecosystem:** means a dynamic complex of communities of plants, animals and micro-organisms together with their nonliving environment which interact as a functional unit.
13. **Erosion:** means the wearing away of the soil by the natural action of wind or water which is often intensified by human practices of de-vegetation.
14. **Environmental Impact Study:** means that part of the process of evaluation of the environmental impact which analyses technically and scientifically the consequences on the environment of the realisation of development activities.
15. **Environmental Management:** means the rational and sustainable administration and utilisation of environmental elements, including the reuse, recycling, protection and conservation of these elements.
16. **Environmental Impact:** means any positive or negative change in the environment which is the result of human activity and includes especially those changes which have consequences for the air, land, water and on the health of persons.
17. **Environmental Legislation:** includes any and all legal instruments which govern the management of the environment.
18. **Sectoral Legislation:** means the legal instruments which govern a specific environmental element.
19. **Environmental Quality Standards:** mean the legally prescribed and permitted levels of pollutants for the appropriate use of environment elements for a particular purpose.
20. **Environmental Expertise:** means the investigation carried out by a group composed of well-known, reputable specialists in order to evaluate the gravity and costs of damage caused to the environment.
21. **Pollution:** means the deposit in the environment of substances or residues, regardless of their form, as well as the emission of light,

sound and other forms of energy in such a way and in such quantity that the environment is negatively affected.

22. **Environmental Quality:** means the equilibrium and healthfulness of the environment including the appropriateness of its elements to the needs of human beings and other living beings.
23. **Hazardous Waste and Residues:** are substances or objects to be eliminated, that there is the intention to eliminate or which must, by force of law, be eliminated and which are risks by virtue of characteristics such as inflammability, being corrosive, explosive, toxic, infectious or radioactive or other characteristic which constitutes a danger to the health or life of humans and other living beings [and] to environmental quality.
24. **Wetlands:** are natural or artificial, permanent or temporary, still or moving, fresh, brackish or salt, marshes, swamps, bogs or water areas, including areas of sea water whose depth at low tide does not exceed six metres and that sustain plant and animal life which requires water saturated soil conditions.

Article 2

Purpose

The purpose of the present law is to define the legal basis for the proper use and management of the environment and its elements in order to establish a system of sustainable development in Mozambique.

Article 3

Scope

This law applies to all public and private activities which could directly or indirectly influence environmental elements.

Article 4

Fundamental Principles

Environmental management is based upon fundamental principles that are derivative of the right of all citizens to an ecologically balanced environment that is favourable to their health and physical and mental well-being, namely:

1. the rational utilisation and management of environmental elements in order to promote the improvement in the quality of life of citizens and to conserve biodiversity and ecosystems;
2. the recognition and valorisation of the traditions and the knowledge of the local communities that contribute to the conservation and preservation of natural resources and the environment;
3. Precaution, on the basis of which the management of the environment shall prioritise the establishment of system to prevent acts which are harmful to the environment in such a way so as to avoid the occurrence of negative environmental impacts which are material or irreversible, regardless of the existence of scientific certainty concerning the occurrence of such an impact;
4. A global, integrated vision of the environment as a grouping of interdependent ecosystems which may be naturally occurring or constructed and which must be managed in such a way so as to

maintain their functional equilibrium without exceeding their intrinsic limits;

5. The broad participation of citizens as a crucial element of the implementation of the National Programme of Environmental Management;
6. Equality which guarantees equal opportunities to women and men for access to and use of natural resources;
7. Responsibility, on the basis of which whoever pollutes or in any way degrades the environment shall always have the obligation to repair or compensate the resulting damage;
8. International cooperation, to obtain harmonious solutions to environmental problems, the cross-border, global dimensions of these problems are recognised.

CHAPTER II

ENVIRONMENTAL MANAGEMENT ORGANS

Article 5

Central Organs

1. It is the responsibility of Government to prepare and to implement the National Programme for Environmental Management.
2. In order to guarantee an effective, correct coordination and integration of the environmental management principles and activities in the Nation's development process, the National Council for Sustainable Development is established.

3. The National Council for Sustainable Development is a consultative organ of the Council of Ministers and shall also serve as a forum for the hearing of public opinion on environmental issues.

Article 6

National Council for Sustainable Development

1. The National Council for Sustainable Development has the following powers and authority:
 - a) to pronounce upon the sectoral policies related to the management of natural resources;
 - b) to issue comments on proposals of legislation that is related to the Environmental Legal Framework including proposals to establish or to revise sectoral legislation concerning the management of the Nation's natural resources;
 - c) to pronounce upon proposals for the ratification of international conventions related to the environment;
 - d) to prepare proposals for the creation of financial or other incentives that would stimulate economic agents to adopt environmentally sound procedures in the daily use of the Nation's resources;
 - e) to propose mechanisms for the simplification and efficiency of the process of licensing activities related to the use of natural resources;
 - f) to formulate recommendations to the ministers responsible for the management of natural resources in different sectors on matters relevant to the sector;

- g) to serve as a forum for the resolution of institutional differences related to the utilisation and management of natural resources;
 - h) to carry out all other duties given to it under this law and other environmental legislation.
2. The composition and operation of the National Council for Sustainable Development shall be regulated by decree by the Council of Ministers.

Article 7

Local Organs

At the local level there shall be established services which shall be responsible for the implementation of this law. These services shall guarantee the coordination and decentralised implementation of environmental activities at this level in order to acquire the benefit of local initiatives and knowledge.

Article 8

Public Participation in Environmental Management

It is the duty of the Government to create appropriate mechanisms by means of which the different sectors of civil society, local communities and in particular associations for the defence of the environment are involved in the preparation of policies and legislation related to the management of the Nation's natural resources and in the development of activities that implement the National Programme for Environmental Management.

CHAPTER III

ENVIRONMENTAL POLLUTION

Article 9

Prohibition Against Pollution

1. The production, deposit in the soil or sub-soil, emission into water or the atmosphere of any toxic or pollution substance as well as the practice of any activities which accelerate the erosion, desertification, deforestation or any form of environmental degradation that are outside of the legally established limits is not permitted in the national territory.
2. The importation into the national territory of toxic residues or wastes is expressly prohibited, except under the terms that would be established in specific legislation.

Article 10

Environmental Quality Standards

1. The Government shall establish environmental quality standards in order to ensure the sustainable use of the Nation's resources.
2. In the definition of the environmental quality standards, rules and time limits shall be established for agricultural and industrial processes including machinery and methods of transport to adopt the appropriate technology and procedures in order to neutralise or prevent the emission of polluting substances.

CHAPTER IV
SPECIAL MEASURES FOR
ENVIRONMENTAL PROTECTION

Article 11

Protection of Environmental Assets

The government shall ensure that environmental assets and in particular cultural and historical assets are the subject of measures that permanently protect and valorise these assets and that involve, as is necessary and appropriate, communities and, in particular, associations for the defence of the environment .

Article 12

Protection of Biodiversity

1. All activities which threaten conservation, reproduction, quality and quantity of biological resources, especially those which are threatened with extinction are prohibited.
2. The government shall ensure that appropriate measures are taken in order to:
 - a) maintain and regenerate animal species, recuperate damaged habitats and create new habitats and, in particular, control activities and the use of substances which are susceptible of causing prejudice to animal species and their habitats;
 - b) provide special protection for plant species threatened with extinction and for botanical specimen that individually or as a group have a significance, age, rarity, genetic potential, scientific or cultural value as to require such protection.

Article 13

Environmental Protection Zones

1. In order to protect and preserve environmental elements and to maintain and improve ecosystems that have a recognised ecological and socio-economic value, the government shall establish environmental protection zones which shall be duly posted.
2. Such protected zones may be national, regional, local or international, consistent with the interests to be safeguarded. The zones may cover land areas, lake, river or sea waters and other distinctive nature zones.
3. Environmental protection zones shall be classified, conserved and supervised. The measures adopted to classify, conserve and supervise the zones shall take into account both the need to preserve biodiversity as well as social, economic, cultural, scientific and scenic values.
4. The measures referred to in the previous number shall include the definition of activities that are permitted or prohibited within the protected zones and in the areas adjacent to the zones and also the role of local communities in the management of these zones.

Article 14

Implantation of Infrastructures

1. The implantation of habitational or other infrastructures and the deposit of waste and used materials which, by virtue of their size, nature or location, would provoke a significant negative impact on the environment are prohibited.

2. The prohibition referred to in the previous number is applicable in particular to coastal zones, zones threatened by erosion and desertification, wetlands, environmental protection zones and other ecologically sensitive zones.
3. Norms for the implantation of infrastructure in the zones referred to in the preceding number shall be established by regulation. The implantation of infrastructures in areas surrounding roadways, railways, dams, ports and airports, among other sites, shall also be regulated to ensure that the operation, expansion and the scenic harmony of these sites is not prejudiced.

CHAPTER IV

PREVENTION OF ENVIRONMENTAL DAMAGE

Article 15

Environmental Licensing

1. The licensing and registration of activities which by virtue of their nature, location or size are susceptible of significant environmental impact shall be carried out in accordance with the regime to be established by the government in specific regulations.
2. The issuance of an environmental licence shall be based upon an environmental impact assessment of the proposed activity. This environmental licence is a prerequisite to the issuance of any other licence which may be legally required in each case.

Article 16

Environmental Impact Assessment

1. The environmental impact assessment shall be based on an environmental study to be carried out by entities registered by the government.
2. The environmental impact assessment methodologies and other procedures for each case shall be defined in specific legislation.

Article 17

Minimum Content of the Environmental Impact Study

The environmental impact study shall include the following minimum information:

- a) a non-technical summary of the project;
- b) a description of the activity to be carried out;
- c) the environmental status of the site where the activity is to be carried out;
- d) any consequential alteration of the different environmental elements which exist in the site;
- e) measures to be taken to eliminate or reduce the negative impacts of the activity on environmental quality;
- f) systems to be implemented to control and monitor the activity.

Article 18

Environmental Audits

1. All activities which on the date this law enters into force are operating without the application of appropriate technologies or procedures and as a consequence, result or could result in damage to the environment shall be subjected to an environmental audit.
2. The operators of the activities shall be responsible for the costs which result from the repair of environmental damage which may be determined by the audit.

CHAPTER VI

CITIZENS' RIGHTS AND DUTIES

Article 19

Right to Information

All persons have the right to access to information concerning the Nation's environmental management, subject to the legally protected rights of third parties.

Article 20

Right to Education

In order to ensure the correct management of the environment and the necessary community participation, the government, in coordination with

social communication entities, shall establish mechanisms and programmes for formal and informal environmental education.

Article 21

Right to Access to Justice

1. Any citizen who believes that his rights which have been conferred by this law have been violated or are under threat of violation may have recourse to the jurisdictional procedures to obtain the restoration of his rights or the prevention of their violation.
2. Any person who as a consequence of the violation of environmental legislation suffers personal injury or damage to property, including the loss of crops or profits, may sue in court the perpetrator of the damage or injury and demand the respective redress and compensation.
3. The legal actions referred to in numbers 1 and 2 of this article shall comply with the appropriate procedural requirements.
4. Without prejudice to the right of injured parties to propose the initiation of the actions referred to in this law, the Attorney General's Office (*Ministério Público*) shall defend the environmental values protected by this law.

Article 22

Injunctions

Those who believe that their right to a ecologically balanced environment has been violated may, through the use of procedures to obtain

administrative injunctions and other appropriate procedures, demand the immediate suspension of the activity which is causing the violation.

Article 23

Duty to File Complaint

Any person who has knowledge of any infraction of the provisions of this law or any other environmental legislation or who has a reasonable belief that such an infraction may imminently occur shall have the duty to inform the nearest police or other administrative authorities of the fact.

Article 24

Duty to Make Responsible Use of Resources

All persons have the duty to use and to encourage other persons to use natural resources in a responsible and sustainable way, wherever such resources are found and regardless of the purpose of the use.

CHAPTER VII

EXERCISE OF ECONOMIC ACTIVITIES

Article 25

Civil Liability Insurance

All persons who carry out activities which involve an elevated risk of environmental degradation and which are classified as such by legislation concerning environmental impact assessment shall insure their civil liability.

Article 26

Strict Liability

1. Any person who causes material damage to the environment or who provokes the temporary or definitive paralisation of economic activity as a result of the practice of especially dangerous activities, shall, regardless of intent and notwithstanding compliance with the law, be obligated to indemnify the injured parties.
2. The government shall have the power and authority to evaluate the seriousness of the damage and to assess the amount of compensation. The amount of compensation shall be fixed by environmental expert testimony and proof.
3. Whenever circumstances so require, the State shall take the necessary measures to prevent, contain or eliminate any grave damage to the environment. The State shall have the right to seek compensation for these costs incurred.

Article 27

Environmental Crimes and Infractions

Infractions which are of a criminal nature as well as violations in respect of the environment shall be regulated by specific legislation.

CHAPTER VIII

Environmental Supervision

Article 28

Environmental Supervisors

In accordance with regulations to be issued, the Government shall establish a corps of environment supervisors. These environmental supervisors shall have the power and authority to ensure the implementation of environmental legislation and to take the necessary measures to prevent the violation of such environmental legislation.

Article 29

Duty to Collaborate

All persons responsible for the carrying out an activity or for a site subject to inspection shall co-operate with the supervisors in the execution of their duties.

Article 30

Community Participation

In order to guarantee the necessary participation of local communities and the adequate use of the human resources and knowledge of these local communities, the government, in co-ordination with the local authorities shall promote the establishment of community supervisors.

CHAPTER IX

FINAL DISPOSITIONS

Article 31

Incentives

The government shall establish economic and other incentives in order to encourage the use of environmentally sound technology and productive processes.

Article 32

Sectoral Legislation

1. The existing legislation which governs the management of environmental elements shall be adapted to the provision of this law.
2. In the regulations of this law, the government shall have the power and authority to set time limits for compliance with this law by already authorised projects and by operational ventures which violate the provisions of this law.

Article 33

Supplementary Legislation

1. The government shall adopt the regulatory measures which are necessary to implement this law.
2. In the regulations of this law, the government shall have the power and authority to set time limits for compliance with this law by already authorised projects and by operational ventures which violate the provisions of this law.¹

Article 34

Entry into Force

This law will enter into force 60 days after publication in the Bulletin of the Republic².

Approved by the Assembly of the Republic, on _____ of _____ 1997.

The President of the Assembly of the Republic, *Eduardo Joaquim Mulémbwè*

Promulgated on _____ of _____ of 199_

Let it be Published

The President of the Republic, JOAQUIM ALBERTO CHISSANO

¹ Translator's note: This clause 33.2 is an exact repeat of clause 32.2.

² Translator's note: The Bulletin of the Republic is the Government Gazette in which legislation and other official government orders, contracts, etc. are formally and officially published.

CHAPTER I - GENERAL DISPOSITIONS	2
Article 1 - Definitions	2
Article 2 - Purpose	5
Article 3 - Scope	6
Article 4 - Fundamental Principles	6
CHAPTER II - ENVIRONMENTAL MANAGEMENT ORGANS	7
Article 5 - Central Organs	7
Article 6 - National Council for Sustainable Development	8
Article 7 - Local Organs	9
Article 8 - Public Participation in Environmental Management	9
CHAPTER III - ENVIRONMENTAL POLLUTION	10
Article 9 - Prohibition Against Pollution	10
Article 10 - Environmental Quality Standards	10
CHAPTER IV - SPECIAL MEASURES FOR ENVIRONMENTAL PROTECTION	11
Article 11 - Protection of Environmental Assets	11
Article 12 - Protection of Biodiversity	11
Article 13 - Environmental Protection Zones	12
Article 14 - Implantation of Infrastructures	12
CHAPTER IV - PREVENTION OF ENVIRONMENTAL DAMAGE	13
Article 15 - Environmental Licensing	13
Article 16 - Environmental Impact Assessment	14
Article 17 - Minimum Content of the Environmental Impact Study	14
Article 18 - Environmental Audits	15
CHAPTER VI - CITIZENS' RIGHTS AND DUTIES	15
Article 19 - Right to Information	15
Article 20 - Right to Education	15
Article 21 - Right to Access to Justice	16
Article 22 - Injunctions	16
Article 23 - Duty to File Complaint	17
Article 24 - Duty to Make Responsible Use of Resources	17
CHAPTER VII - EXERCISE OF ECONOMIC ACTIVITIES	17
Article 25 - Civil Liability Insurance	18
Article 26 - Strict Liability	18
Article 27 - Environmental Crimes and Infractions	19
CHAPTER VIII - Environmental Supervision	19
Article 28 - Environmental Supervisors	19
Article 29 - Duty to Collaborate	19
Article 30 - Community Participation	20
CHAPTER IX - FINAL DISPOSITIONS	20
Article 31 - Incentives	20
Article 32 - Sectoral Legislation	20
Article 33 - Supplementary Legislation	21
Article 34 - Entry into Force	21