



## **The Legal Framework For Start-Up Company in Mozambique**



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## 1. INTRODUCTION

This manual is part of a series developed in order to assist investors in achieving its business in Mozambique. The manual is based on the idea that informed investors can more easily comply with the law, and the conviction that the general principle of law is the best guarantor of property and order and sustainable development.

In 2008 the government published its strategy to improve the business environment in Mozambique (Resolution 3/2008 of 29 May) with the aim of creating an improved business environment for the development of business. This was a response to growing concern about Mozambique's position in the World Bank's Doing Business indicators, and ongoing concerns of the private sector about the complexity of the procedures required to incorporate, register and license companies.

The strategy to improve the business environment is still in the implementation and upgrade process to take into account the already completed reforms, and some support legislation, such as creating forms of simplified licensing and Single Service desks already established in the previous edition.

In this new edition we bring updates procedures for licensing and exercise activities, industry regulated by the Industrial Activity Licensing Regulation approved by Decree N° 22/2014 of 16 May, as well as commercial activity regulated by the Licensing Regulation commercial, approved by Decree N° 34/2013 of 2 August.

As we prepared this booklet, we found ourselves at times disagreeing over what was proper procedure in respect of certain official acts. We learned that that was because, in some cases, the same matters were handled slightly differently in different parts of the country. While the differences are not of great consequence, for clarity of exposition we decided to follow this simple rule: we describe procedures as described in law. While the sources of law governing most of these procedures (with the exception of municipal by-law), are national, of course, local interpretation of national law can generate distinct practices.

We also had to choose between describing procedures as they apply to limited liability quota companies (colloquially known as limitadas) and limited liability share companies (colloquially known as SAs or previously as SARLs). Because the great majority of start-up

companies in Mozambique are organized as limitadas, we chose the limitada as our prototypical form of legal person.

On many occasions in the text of this English language edition, where we have been faced with a choice of whether to use a term in English or in Portuguese, we have used the term in Portuguese. While this may seem, in the short term, disadvantageous to the reader unfamiliar with Portuguese, in the long term she will become more conversant and comfortable with the basic vocabulary of corporate governance in Mozambique. The effort is one worth making.

Other booklets in the series are available on the ACIS web site, [www.acismoz.com](http://www.acismoz.com).

While we have tried our best to be accurate, we may have made some mistakes, and we have 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.

However, the detailed nature of the subject and prudence lead us to renounce responsibility for errors or omissions. For questions, readers can count on aid lawyers or jurists.

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!

## **2. GLOSSARY OF TERMS**

Please find below a list of some of the terms you will encounter during the process of incorporating and registering your company. Defined terms are set forth in bold typeface.

**Águas de Moçambique** - Local water company. Águas de Moçambique is a private company supplying water under contract in various Mozambican cities. It invoices monthly;

**Alvará** - Company trading or operating license;

**Assembleia Geral** - The General Assembly of a company, sometimes also called the General Meeting. The Assembleia Geral is the highest corporate body of a company; it is composed of the quotaholders or their representatives. The Assembleia Geral elects the management of the company. The Assembleia Geral must by law meet at least once a year and may meet more often. The minutes of those meetings are recorded in the Livro de Actas;

**Assinatura Reconhecida** - Signature on a document compared to that in an identity document and stamped as corresponding thereto, by the Notary. This is a procedure whereby an individual document is authenticated by the notary as provided for by law;

**Auto de Vistoria** - Certificate of Inspection of company premises. To be signed by inspectors from CHAEM, Bombeiros, and the relevant Provincial Directorate, as well as by the municipal council where relevant;

**Autorização de Trabalho** - Work authorisation issued by Ministry of Labour to foreign employees. Usually valid for two years;

**Balancete** - Long hand accounting book purchased at government stationers, stamped and signed by the Court and Provincial Finance Department;

**Balcão Único** - Public service provision sites, designed to be of easy access, where people can receive certain public services;

**BI (Bilhete de Identidade)** - Mozambican Identity Card. Every Mozambican worker must have a current one of these;

**Boletim da República** - The official gazette of the Government of Mozambique, in which laws and regulations, as well as companies' articles of association, must be published;

**Bombeiros** - The Fire Department, who will send a representative to inspect the safety of your premises. This department can inspect your offices at any time;

**Caderneta de Controle Sanitário** - Health and Safety Inspection Book. Purchased then stamped by CHAEM. Must be available for inspection at company offices.

**Cartão de contribuinte** - Individualized social security identification card provided by INSS (the National Institute Contribuinte for Social Security) to each worker. A copy should be kept in the worker's personnel file;

**Cartão de Desemprego** - Provincial Labor Department registration document. Every new employee must have one. Rarely requested in Maputo;

**Certidão de Registo Comercial** - Certificate of commercial registration of a company, sometimes called the certidão comercial. The registration can be a provisional one, valid for 90 days and therefore called provisório, or a permanent one, called definitiva;

**Certidão de Reserva de Nome** - Certificate issued by the Conservatória de Registo de Entidades Legais affirming that there exists no company with same name as the name by

which the incorporators propose to call their company, in the geographical region covered by that Conservatória de Registos and reserving that name for 90 days;

**CHAEM (Centro de Higiene, Ambiente e Exames Medicos)** - Division of the Provincial Health Department. CHAEM inspects company premises for health and safety prior to and as a condition of licensing, and carries out health checks on new employees. (This latter procedure is not often done in Maputo.) CHAEM can inspect company premises at any time;

**Conservatória** - Commercial and Property Registry. In Maputo, commerce and property registration are handled by distinct registries, the Conservatória de Registo Comercial and the Conservatória de Registo Predial. Changes made in 2006 should lead to all registries being known as “Conservatória de Registos de Entidades Legais” and to all procedures being streamlined and digitized. However that has not yet happened;

**Cópia autenticada** - Copy of a document compared to the original and stamped as corresponding thereto by the Notary;

**Data de Início de Actividade** - The date you specify, in communications to various government departments, as the date on which your company will start trading. Periodic accounts must be submitted from this date and no item can be invoiced prior thereto;

**DIRE (Documento de Identificação e Residência para Estrangeiros)** - or Foreigners’ Identification and Registration Document. A DIRE is issued by the Provincial Immigration Department on the basis of a work permit issued by the Ministry of Labour. (In Maputo, the DIRE is issued by the National Department of Immigration). DIREs are usually required to be renewed annually;

**Direcção Provincial de Trabalho** - Among other functions this department receives an application for and issues work permits to foreigner workers, based on a quota system calculated according to the size of each company;

**DUAT (Direito de Uso e Aproveitamento de Terra)** - or the right to use and benefit from land – a land usage title;

**EDM (Electricidade de Moçambique)** - the national power company. EDM invoices monthly;

**Empresa Unipessoal** - A limited liability company with a single quota holder or shareholder;

**Escritura Pública** - Literally, a public deed. In the context of company incorporation, the term is sometimes used as shorthand for the handwritten (or increasingly in some provinces, computer printed) extract of the articles of association prepared by the Notary, with certain other documents attached;

**Estatutos** - The articles of association of a company, supplying the rules by which corporate life and the relationship between the quota holders will be conducted;

**Folha de Salário** – Pay schedule. This must be completed in duplicate with the worker signing both copies and also receiving a take-home breakdown of his salary. The schedule must contain all deductions and is submitted monthly to the Provincial Labor Department by the 10th of the subsequent month;

**Horário de Trabalho** - Work schedule form outlining the hours during which the company will be open for business. The Horário de Trabalho must be approved by Provincial Labor Department and displayed at the company's offices;

**INSS (Instituto Nacional de Segurança Social)** - National Institute for Social Security, the institution that administers the social security system. Workers pay 3% of their salaries, withheld at the source, to which the employer adds a further 4% contribution. Payments must be made monthly by the 10th of the subsequent month. The term INSS is sometimes used as shorthand to refer to the social security tax itself.

**IRPS (Imposto sobre o Rendimento da Pessoa Singular)** - It consists of a withholding tax of all employees listed in the Salary Sheet (domestic and foreign), and paid by the employer to the twentieth day of the month. The figures vary according to salary.

**IVA (Imposto sobre o Valor Acrescentado)** - It is a consumption tax which taxes the products, services, commercial transactions and imports, it is a plurifásico tax because it is paid in all phases of the economic cycle, from the producer to the retailer. Plurifásico being, it is not cumulative because your payment is split by the various players in the economic circuit through the tax credit method. The rate in force is 17%, some goods are exempt;

**Livro Razão** - Long hand accounting book purchased at government stationers, stamped and signed by the Court and the Provincial Finance Department;

**Livro de Actas** - Company minutes book, in which the minutes of meetings of the Assembleia Geral are recorded;

**Livro de Reclamações** - Complaints book. Each government department must have one. It can be used to raise both general and specific complaints;

**Livro Diário** - Long hand accounting book purchased at government stationers, stamped and signed by the Court and Provincial Department of Finance;

**Modelo 1** - The form by means of which one states ones intent to the Ministry of Finance to begin activities and by which one defines the tax regime to apply to the company;

**Modelo 6** - The form by means of which one applies for a NUIT;

**Notary** - The Provincial Registry and 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)** - It is a number consisting of nine digits, assigned by the Tax Authority identification of natural persons and legal persons in any situation before the tax authorities, this should be clearly printed on all invoices and receipts;

**Plano de Férias** - Company leave schedule prepared annually in accordance with the Labor Law. The Plano de Férias must be displayed at the company's offices;

**Processo Individual** - Personnel File. A processo individual must be created for each new employee, and should contain the employee's photograph, BI, labor contract, cartão de desemprego, health certificate issued by CHAEM. It is also where other personnel records are to be kept. In Beira and Maputo, special files for the processo individual may be purchased;

**Procuração** - Power of Attorney, a grant by one person to another to represent him, usually for certain limited purposes, as appropriate to the context;

**Relação Nominal** - List of all employees (national and foreign, including quotaholders) on the Folha de Salários, including details of salary, grade, and educational attainments, among other details; Prepared on a form sold at the Provincial Department of Labor or government stationers, or electronically on a template available from ACIS. The Relação Nominal must be displayed at the company's offices;

**Seguro Colectivo** - Workers' insurance. This must be paid by companies for all employees, and usually covers work-related accidents and other risks not covered by INSS.

**Taxa de Lixo Municipal** - rubbish collection tax, payable monthly or annually to the Municipal Council. In Maputo, the taxa de lixo is included on a utility bill rather than being collected directly.

**TDM (Telecomunicações de Moçambique)** - the national telephone company. Having connected your line, contact TDM on 800 123123 (in the city of Beira) between the 15th and 30th of each month to receive a statement of your account, which must be paid by the 30<sup>th</sup>;

**Vistoria** - Inspection by officers of the relevant Provincial Directorate, Bombeiros and CHAEM of the company's premises, prior to or following the issuing of an Alvará, depending on whether simplified licensing or standard licensing procedures are followed.

### **3. INCORPORATION AND COMMERCIAL REGISTRATION**

There are various types of commercial society, those in collective name, of capital and industry, of shares or anonymous ones. A society which intends to operate a commercial company may only do so using one of the types mentioned. The most common type of



commercial society created is the limited liability, quota-hold company and it is this type that is described herein.

A quota-hold company, in which the social capital is divided into quotas and the partners are fully responsible for the provision of that social capital, is characterized by the limited liability of the partners. This means that the owners of the company – whether shareholders or, as in the present case of the *limitada*, the quota holders – are only liable to third parties up to the amount they contributed to the capital of the company. If the company becomes insolvent, the disappointed creditors cannot reach the quota holders' personal assets.

The incorporation of a society, and its registration at the Conservatória de Entidades Legais is the process by which the law confers legal personality on a business enterprise that we call in this booklet, and in ordinary speech, a company. The law requires that a certain number of formalities be completed to create such companies. And if those formalities – detailed below – are slighted, then the business endeavour may not have legal personality distinct from that of its promoters. So please be most careful to take each required step, and you will have a reliable corporate vehicle with which to do business in Mozambique.

The first step to incorporate a company is to select a name and reserve it at the Commercial Registry (Conservatória do Registo de Entidades Legais or just Conservatória). The name chosen can be an individual's name, a composite of the names of the partners, an invented name, or can allude to the type of business the company will undertake. In the case of a limited liability quota-hold company, at the end of the name, an abbreviation indicating the legal form of the company is appended. In the case of a *limitada*, the abbreviation used is “Lda”. On all official correspondence the name followed by the abbreviation for legal form must be shown. This serves the purpose, among others, of alerting a third party that the people she is transacting with have limited liability – that is, only the assets that belong to the company are, in principle, available to back up the commitments those people make.

### **3.1 Name Certificate (Certidão de Reserva de Nome)**

In order to reserve the company name, you send a simple request (*requerimento*) to the Commercial Registry asking that they verify in their records that no other company with the same or a similar name exists. A fee must be paid. A receipt is provided (Do keep all your receipts – they are useful as business expenses to offset your revenues).

Having verified that the name selected is unique and not so similar to any other name as to create confusion in the public mind, the Conservatória issues a Certidão de Registo Negativo or Certidão de Reserva de Nome.<sup>4</sup> This has the effect of reserving that name for your use for 90 days – time enough to proceed to the next step in the incorporation process.

There are two details worth remembering about reserving a company name. One is that the Conservatória in each city or district is not integrated with all the others. That means, in practice, that a person can successfully reserve a name in Maputo while in Beira, a company with that same name already exists. While not a common event, it does happen from time to time. Second, the Commercial Registry's records currently consist of a series of ledgers, some of which are quite old, and a search may not always provide accurate results. For those reasons, it is worthwhile doing some research, for example using telephone directories from the main urban centers, in order to ensure that the name selected is not already in use. The process of establishing a computerized registry has already begun so these issues should be resolved in the near future.

### **3.2 The Social Contract (Contrato de Sociedade)**

The Social Contract is the term used for the constitution of a commercial society. In broad terms this contract comprises three parts: the signing of the contract; its registration; and its publication.

The Social Contract may be celebrated in the form of a document drawn up by the quota-holders and signed in the presence of a notary, or in the form of a public deed if immovable assets are included as part of the contract.

The social contract, or articles (estatutos) as it is commonly known presents the rules by which the company, and the relationship of the owners of the company as such, will be governed. The estatutos can be as simple or detailed as the parties require, but in any event must contain certain key features, as follows:

#### **a) Identity of the partners**

The names or company names of the founding quota-holders, and elements identifying them (for example natural person (that is, an individual) must give his full name as it appears in his

passport or other identification document while a legal person, such as a company, must give the name of such legal person as it appears in the company corporate identification document (whether a certificate of incorporation, a charter or another document). A limitada must have a minimum of two partners and a maximum of thirty.

**b) Company name**

As registered with the Conservatória, including the abbreviation that denotes the legal form the company is taking (in our case, a limitada).

**c) Objectives of the company**

The objectives must indicate for what purpose the company is being created.

A company may be registered for a specific objective (for example, tourism) or for a variety of possible objectives. We recommended that, where applicable, companies be registered with a broad yet reasonable set of objectives. This allows for expansion or adaptation of the company in future, since the application for any operating license requires proof that the company has the legal capacity to operate in a specific sector. This proof is provided by the article of the company's articles of association that states its objectives.

For example, if a company is originally registered in order to retail computers using a commercial retail license but in the future the directors decide to open a computer training school, the application for a license to open the school will depend in part on whether the company's estatutos include training among the Company's objectives.

The inclusion of import and export among the company's purposes allows the company to apply for its import and export licenses.

While it is certainly possible to amend the estatutos in the future, there is no good reason to spend the time and money to do so if the company's objectives can be appropriately defined from the start.

**d) Location of the company's headquarters (city or town and province) or where this is unknown, the address of one of the partners**

The company headquarters must be in a defined location, which must be registered before the company can begin operating. The estatutos can allow the company to change headquarters and open specific sites for specific activities.

**e) Duration of the company**

Usually for an unlimited or undefined period, but is also possible for a company to exist for a limited period.

**f) Social capital, method and time period for its constitution**

In Portuguese we refer to capital social. This is the stated value of the assets the quota holders have contributed to the company, and may be realized in cash, goods or rights. The social capital must correspond to the sum of the nominal values of the quotas with the partners defining the amount necessary to undertake the company's activities.

The social capital is the amount the partners contribute to the company. Quota holdings are expressed in monetary amounts, notwithstanding that capital may be contributed in the form of cash, goods or rights. Values must be expressed in the national currency.

The social capital, if constituted in cash, can only be used by the person designated to sign on behalf of the company after the company is registered, unless three months has passed since the date of deposit and the company has not yet been registered in which case the person who made the deposit can withdraw it.

**g) Participation in social capital by each partner, payments and other contributions made, description and values of any goods or rights which constitute part of the social capital**

Social capital is divided into quotas and the social capital to which each partner subscribed corresponds to a quota. Usually the estatutos indicate the percentage value of each quota. At constitution partners must put up at least 50% of the social capital with the remainder made available within the next three year.

**h) How the company will be managed**

The highest corporate authority in a limitada is the Assembleia Geral. There may also be a requirement to have a management board, audit board or single auditor. An audit board or single auditor are compulsory in companies with 10 or more quota-holders, or which operate in a manner similar to an SA.

The Assembleia Geral meets ordinarily within three months of the end of each financial year to approve the accounts, and extraordinarily when called by its chair, by the administration or the auditor or by partners representing at least 10% of the social capital.

The company may be managed by one or two administrators or by a management board comprising at least three members. Usually the estatutos allow for the day to day running of the company to be undertaken by a manager to be appointed by the management board. The titles given to the managers can vary. Quota holders can be, but need not be, managers.

It is prudent, in the final section of the estatutos, to provide for a certain named person or persons to manage the company until the first Assembleia Geral can be held, and boards elected.

#### **i) Date on which the company is incorporated**

Other rules exist which, while not compulsory are often found in estatutos:

- The way in which quotas may be sold, divided or transferred It is common, in limitadas, for quota holders and the company itself to have rights of first refusal in respect of another quota holder's proposed sale, division or transfer to his quota to a third party. This means that before a quota holder can sell (or otherwise transfer) her quota to a third party, she must first offer that quota to the other quota holders, or the company itself, on the same terms as offered to the third party. Only if her fellow quota holders, and the company itself, decline to purchase may she sell her quota to the third party, and only on the terms originally proposed. Rights of first refusal are commonly, though not invariably, set out in the estatutos.

Rights of first refusal are useful in limitadas because such companies are often run by, or depend importantly on the day-to-day involvement of, their owners – the quota holders. If one quota holder could simply sell his quota without the knowledge and, at some level, consent, of the others, those remaining quota holders could suddenly find themselves in business with people they don't know and don't trust. In any event, any sale or other transfer of a quota which contains real property goods is accomplished by public deed.

- Provision regarding yearly accounts and the payment of dividends. The general rule under Mozambique's General Accounting Plan (Plano Geral de Contas) is that the fiscal year corresponds to the calendar year, i.e. 01 January to 31 December. It is possible, however, to apply for authorization from the Ministry of

Finance for the company to have a fiscal year that does not coincide with the calendar year for a good reason (e.g. the company's parent must consolidate the company's accounts with its own, and has a fiscal year that does not coincide with the calendar year).

### 3.3 Presentation of Estatutos to the Notary

The estatutos can be drawn up by the quota holders themselves or by a lawyer<sup>11</sup>. The draft estatutos are then presented to the Notary. The draft should be accompanied by a number of other documents the Notary requires. These are:

- The original certidão de registo negativo – and please remember, it is only valid for 90 days;
- Identity documents for each quota holder (the documents required are different for natural persons (i.e. individuals) and legal persons (e.g. companies) - the differences are discussed in FAQs below);
- In the case of legal persons, appropriate resolutions of the corporate bodies empowered to make decisions in the matter of the creation of and participation in the capital of a subsidiary (again, some further notes on this are below); and
- For either natural persons or legal persons who cannot be present at the signing of the escritura pública, appropriate powers of attorney to persons in Mozambique who can sign on their behalf and otherwise represent them for related purposes.

The documents requested during this process are required in order to permit the Notary to judge whether (i) the transaction proposed is legal, and (ii) all those named as quota holders truly wish to participate in the company. If, for example, the Notary finds a clause of the estatutos that contravenes the corporate law, he will invite the quota holders to amend it. And if proper powers have not been granted to a representative, then the Notary will properly refuse to give effect to a public deed (i.e. the incorporation), because it does not appear to be in conformity with the will of the person named. Thus, the formal procedures of the public deed operate fundamentally to protect parties from making technical mistakes with respect to important commitments.

Once the Notary has verified that the documents submitted comply with legal requirements, he will provide a quote for the cost of incorporation. This value is calculated based on a percentage. It is not compulsory to present the estatutos to the notary, this is only required

when the social capital comprises property, and in certain other cases. The methods used to calculate these costs are provided in Ministerial Diplomas 150/2001, of 03 October and 19/98, of 04 March. In the case of companies where the social capital is less than 5 million Meticais, the cost is **2/1000 x social** capital and for those companies with social capital of over 5 million Meticais the calculation is 0.1% of the social capital.

Following payment the estatutos may be hand transcribed into the Notarial Ledger. This process can take between three days and one month. In some provinces such as Maputo, Notarial offices are now equipped with computers, meaning that the process is becoming much faster. Once the document is ready, the quota holders or their representatives (those who have powers of attorney) are invited to make an appointment and to go in person to the Notary's office to sign the estatutos. The Notary reads the document aloud to the quota holders. This is done to ensure that each of the quota holders is aware of what she is signing and to give the opportunity to correct any errors in the transcription. If during this reading there is any uncertainty about any aspect of what has been written any of those present may, and in fact should, ask to check the document. Corrections at a later date can be costly and time-consuming. When signing the documents the Notary may ask to check the identity of those present against the copies submitted with the original estatutos, so you should take personal identification with you.

In the case of signature before the notary of a social contract no document is provided. However in the case of a public deed, when all the quota holders have signed the estatutos the Notary produces a certificate, which is in fact a photocopy of the signed estatutos along with the supporting documentation such as the Certidão de Registo Negativo and the powers of attorney of those who signed. The fees paid for the estatutos include a number of notarized copies (in Beira, six and in Maputo five) of the certificate which will be needed at other stages of the registration process. At the same time the Notary also prepares a type-written extracto or summary of the estatutos which is needed for publication in the Boletim da República. Preparing these documents can take some time.

It is important to ensure that at least one notarized copy of the certificate of the estatutos remains at the company headquarters at all times. This document is used in many of the other processes you will need to complete and obtaining new copies can be a time consuming process.

At this stage it is possible to apply to the Commercial Registry for Commercial Registration. As a rule at this stage registration should be provisional but some Registries are now issuing definitive registration certificates immediately, with applicants then providing the remaining supporting documents as these become available.

We have had the misfortune to see the consequences in a number of cases where investors who do not speak Portuguese have signed up to estatutos that they either did not read or the implications of which they did not fully understand. If Portuguese is not your first language, we recommend that you have the articles of association reputedly translated and seek professional counsel in their regard.

### **3.4 Government Gazette (Boletim da República or BR)**

Following signing either the partners (in the case of a social contract) or the Notary (in the case of a public deed) must prepare a document (the extracto) for publication in the Boletim da República. In Maputo, the extracto must be submitted at the conservatória when undertaking the commercial registration. Publication of the estatutos is now officially the responsibility of the conservatória though outside Maputo this rarely takes place.

The fee paid for this publication is calculated based on the number of pages used and the capital social of the company. Though the fee established by Ministerial Diploma 228/2002, of 25 December is from 17 MT - 21 MT per line of the different types of column the actual fee charged by the National Printing Press is between 19.42 - 485.55 MT. Both an invoice and a receipt are given.

Printing in the BR can take between two weeks and two months though longer delays have been recorded. Once the BR containing your estatutos has been published you will need to buy at least one copy.

We recommend that you take a number of copies of the relevant pages of the BR (front cover plus pages containing the estatutos) and authenticate them. Copies of the BR are needed in many of the stages of registration as well as in day-to-day corporate life.



### **3.5 Commercial Registration**

After signing the social contract or public deed, commercial registration is required. The theoretical purpose of commercial registration is to give broad publicity to the individuals' and companies' legal ability to transact commercial business, as well as to certain legal facts connected with commercial life. The fact that a legal person – say, a limitada – has come into existence, is the subject of commercial registration. But so too are other important events in the life of a company, such as capital increases, the appointment and removal of corporate officers, sale and transfer of quotas and certain judicial decisions in respect of the company.

With the approval of Decree-Law 1/2006 of 03 May the two previous types of commercial registration (provisório and definitivo) were replaced by a single registration – the registo comercial. By the same legislation publication in the BR became the responsibility of the Conservatória. However in most provinces this system has yet to be introduced. Indeed delays in the publication of the BR mean that for many companies the use of the registo provisório remains a useful tool as an interim means of moving forward with their registration process. We have therefore opted to include each of the different types of registration here.

#### **3.5.1 Provisional Registration (Registo Provisório)**

Once you have legalized the social contract or obtained the certificate of the estatutos at the Notary, you can apply to the Commercial Registry for registo provisório. Along with the receipt received from paying for the publication of the estatutos in the BR, getting its registo provisório allows the company to proceed with a number of other important processes while waiting for the BR to be published.

The application for registo provisório is made by means of a form (available for free) which is signed by the quota holders or their proxy. The request is presented along with one of the copies of the certificate provided by the Notary. Completion of this form requires that each of the quota holders is registered for tax purposes in Mozambique and has been attributed an Individual Tax Identification Number (Número Único de Identificação Tributária – NUIT). It also requires that the company has appointed an accountant, and the accountant's bio data along with a notarised copy of his identity document must be submitted as part of the application. It is worthwhile retaining a copy of the submission made at the registo provisório

stage so that when applying for definitive registration the form can be completed using the same information. Discrepancies can lead to the form being returned one or more times.

Commercial registration is one distinct act so in theory only one fee should be paid for both provisional and definitive registration. Costs for registo provisório vary depending on the social capital of the company. They are calculated on the same basis as those used for the public deed described above. A receipt is given. Registo provisório may take between three days and three weeks and results in the issuing of a certificate.

As the name suggests, registo provisório is only provisional. It exists because of a timing problem. Legally, a company is obliged to request commercial registration within 90 days of its public deed of incorporation. Outside Maputo, to get final (i.e. definitive) registration, a company must present, among other documents, a copy of its estatutos as published in the BR. Since publication ordinarily takes longer than 90 days, a company is legally obliged to apply for Registo provisório as a stop gap until publication in the BR. Proof of Registo provisório in conjunction with proof of payment to the BR permits you to continue with the registration process.

Following publication of the BR containing the estatutos, you must file a request to convert the registo from provisório to definitivo.

In Maputo there is no need for a request letter for the registo commercial (as previously stated, the system in Maputo does not differentiate between the registo provisório and definitivo). In place of a letter applicants complete the form mentioned above. All supporting documentation detailed here for registo provisório and definitivo is also required in Maputo.

We realize that these different procedures are a little confusing and recommend that you look at the flow diagram below which highlights the different treatments of commercial registration.

### **3.5.2 Final Commercial Registration (registo definitivo)**

Registo definitivo is carried out at the Conservatória de Registo. Registration is done by submitting:

- Notarized certificate of estatutos

- Notarized copy of BR (title page and pages containing the estatutos)
- Notarized copy of the Registo provisório (if it was made)
- A payment calculated as above for Regíto provisório Form (the same as the one used for Registo provisório and again requiring signatures of quota holders and proof of having appointed an accountant)

The process for preparing a request letter for registo definitivo is the same as that for registo provisório. The process is completed by issuance of a certificate of commercial registration. This may take up to one month to issue.

The company is now incorporated and definitively commercially registered. It cannot, however begin to trade until it has secured the issuance of an Operating License from the relevant ministry for the sector in which it is going to operate.

### **3.6 FAQs**

#### **1. Must I have a Mozambican Shareholder?**

There is no legal requirement that companies have Mozambican shareholders. In certain fields, however, notably construction, firms must be majority-owned by Mozambicans in order to be eligible to bid on certain classes of public procurement.

#### **2. Can I apply for my DIRE and start operating now?**

No, Commercial Registration creates a “dormant” company. This company must be “activated” through Commercial or Industrial, or other forms of licensing (see below). It is only possible to trade and also to obtain residence documents with a fully operational company.

#### **3. I made a payment but I was not given a receipt. Is this OK?**

No, in the case of any payment to any government department you have the right to receive, and in fact should request a receipt. In practice, in the case of the Notary, for small amounts such as the cost of notarizing signatures it is common not to receive a receipt. But most departments of government that you deal with will have a system of “urgency” payments for documents needed in a hurry, and receipts are also given for these. The law requires that each government department have a bank account and payments may be made directly into that account. Where possible it is preferable to use this system rather than to pay cash.

**4. I have a lot of receipts from the Registration process. What should I do with them?**

Keep them. The costs of registration can and should be expensed in the company's accounts.

**5. What is the difference between the Notary, the Government Gazette and the Commercial Registry and why is it necessary to register with all three?**

As suggested above, each has a distinct function:

- The Notary ensures that the company is constituted correctly and legally.
- The Commercial Registry ensures that key details of any events in the life of the company are recorded and available for public consultation.
- The BR is the official government publication where all official acts are published and thereby given both the force of law and broad publicity.

While it is theoretically possible, even desirable, that the three functions be carried out by a single agency, in Mozambican law the functions are spread among distinct agencies. The Technical Unit for Legal Reform (the executive arm of an inter-ministerial committee and responsible for legal reform in Mozambique) is considering changes that will, at the least, streamline the process and cause its different elements to be carried out in a single physical space.

**6. With what document does a quota holder establish her identity?**

If she is a natural person, a *cópia autenticada* (authenticated copy) of that quota holder's passport or other identification document, containing a photograph, will be acceptable. Only copies that have been authenticated by a Notary in Mozambique or at a Mozambican consulate will be accepted. If the quota holder is a legal person, a *cópia autenticada* (authenticated copy) of that quota holder's certificate of incorporation (or analogous document) will be accepted. Sometimes, a Notary will also insist on seeing the operating or trading license of a legal person.

While authenticated copies of passports in foreign languages are readily accepted by Mozambican Notaries, a certificate of incorporation or operating license in a foreign language, of which English is one, will almost always need to be translated and certified by an officially recognized translator. Both the original and translated documents are submitted to the Notary.

**7. What should an “appropriate resolution of the corporate body empowered to make decisions in the matter of the creation of and participation in the capital of a subsidiary” look like?**

Well, by “appropriate” we mean, in the first place, that it should have due effect under the law of the jurisdiction where the quota holder itself is incorporated and the articles of association of that quota holder. For instance, if that place is South Africa, then the resolution should take the form it ordinarily takes under South African law and practice; and if it takes the majority of the board of directors of that quota holder to make investment decisions, then the resolution ought to be signed by a majority of the directors. The signatures of those directors must be recognized by a Notary – either in Mozambique, if the directors visit Mozambique, or in their home countries. A second measure of “appropriateness” is that the resolution contains the basic information that the Mozambican Notary would like to see, including a clear decision to invest a certain amount, the percentage of the capital to which that amount corresponds, and the name of the company in which the investment will be made.

### **3.7 CHECKLISTS & FLOW CHARTS**

#### **Name Certificate (Certidão Negativa or Certidão de Reserva de Nome)**

- Letter of request
- Notarised signature
- Payment

You will receive:

- A certificate valid for 90 days

#### **Public Deed of Incorporation (estatutos)**

- Company articles of association prepared by lawyer, notary, or company quota holders
- Evidence of bank deposit of fraction of capital social (not always needed in Beira)
- Name Certificate (Certidão Negativa/ ou Certidão de Reserva de Nome)
- Corporate resolutions (if needed)
- Powers of attorney (if needed)
- Payment to the Notary.

You will receive:

- Copies of the certificate of the estatutos
- 1 type written extracto

### **Government Gazette**

- Letter of Request (not always required)
- Extracto
- Payment
- Send to Maputo (Not required in Maputo. The process of getting the articles published in the Government Gazette is undertaken by the Conservatória).

You will receive:

- Copy of published BR (the fee paid for publication usually includes 1 free copy of the relevant BR)

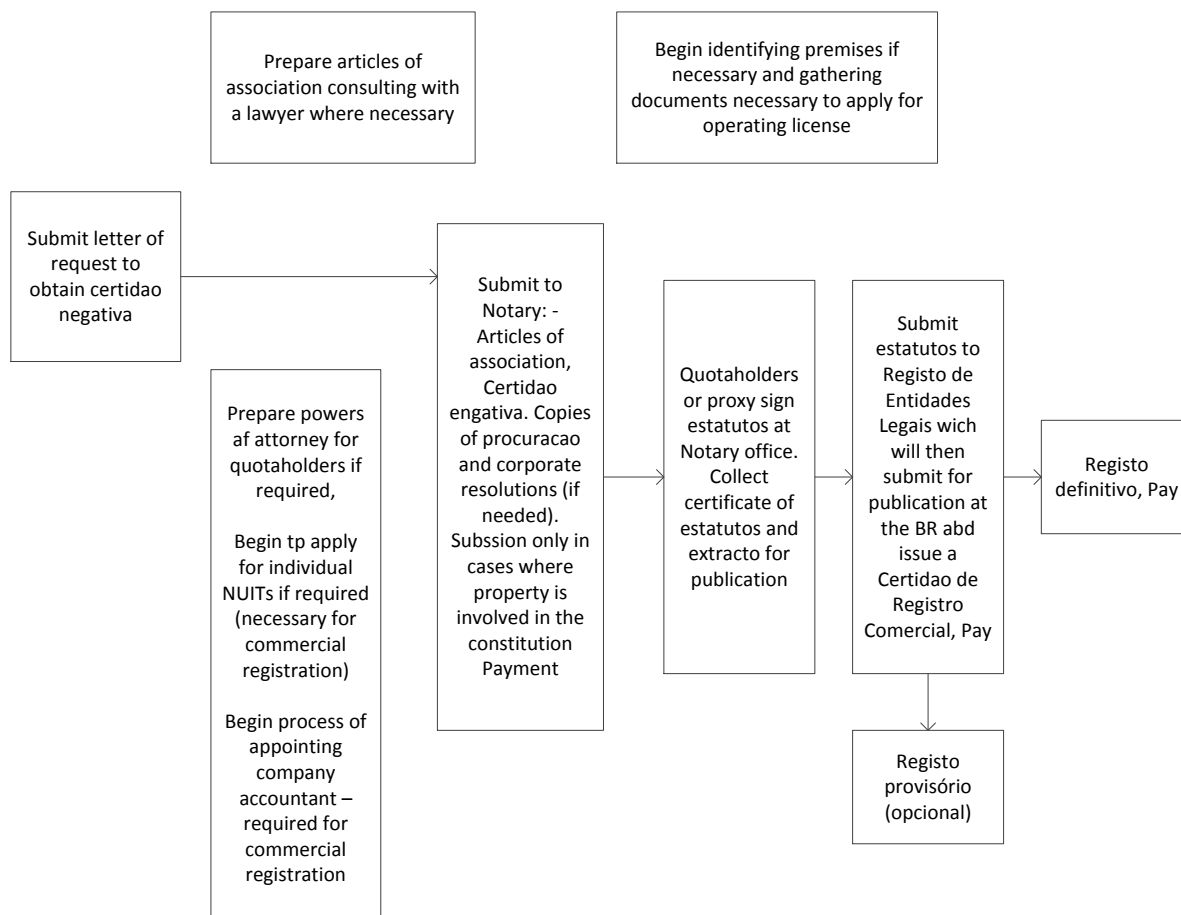
### **Registo Provisório / Definitivo (or Registo Comercial)**

- Letter of request (Not required in Maputo)
- Notarised signature
- Notarised copy of BR (registo definitivo only)
- Notarised certificate of estatutos
- Form signed by quota holders or their proxies including NUITs of signatories and notarised copy of the identity document of the Company's appointed accountant
- Payment

You will receive:

- A certificate of either provisional or definitive commercial registration

## **3.8 Flow Chart for Incorporation and Registration**



#### 4. COMMERCIAL AND INDUSTRIAL OPERATING LICENSES (ALVARÁ)

Having incorporated and registered the company it is now necessary to obtain a license to operate. The regulations governing the application for operating licenses for both the industrial and commercial sectors have been revised recently with a view to simplification. As a result, while the information below reflects current legislation, it does not reflect wide-ranging practical experience with the application of that legislation, particularly in respect of simplified licensing procedures which apply to certain activities.

The introduction of simplified licensing procedures (Decree 5/2012 of 7 March) provides an alternative system for certain types of commercial and industrial activity. Any activity not listed as being covered by simplified licensing, is by default required to follow the procedures described in Sections 4.2 (commercial) and 4.3(industrial).

#### **4.1 SIMPLIFIED LICENSING (Decree 5/2012 of 7 March)**

Simplified licensing allows for the issuing of a license, in the applicant's presence at one-stop shops (Balcões de Atendimento Único - BAU), district administrations and municipal councils. It applies to activities which are deemed not to carry health, environmental or security risks.

The rules governing simplified licensing are applied to the following categories of activity under certain circumstances:

- a) Agriculture;
- b) Trade;
- c) Industry;
- d) Construction;
- e) Communications;
- f) Culture;
- g) Fisheries;
- h) Services; and
- i) Tourism.

For further details of each category see Annex 1

A request for a simplified license can be presented by a national natural or legal person or by a foreign natural person and is made through the presentation of a duly completed form (see Annex 2), together with the following documents:

- a) For Mozambican citizens a copy of a valid Identification Document, Passport, Driving License, Professional Registration Card or Voter Registration Card, and for foreign citizens their DIRE or temporary residence permit, with a validity of at least 6 months,.
- b) A definitive commercial registration certificate (see 3.5.2 above) or copy of the publication of the estatutos in the BR and proof of the applicant's legal role in respect of the company (for example quota holder, proxy);
- c) NUIT (Unique Tax Identification Number).

These documents can in theory be presented in hard copy or in electronic format though few BAUs currently have the technology necessary to receive electronic applications.



For those applying for an additional simplified license having already been issued one for another purpose the forgoing documents (a-c) are not required.

The relevant documents having been submitted along with the official form, the simplified license is then issued within 24 hours. The license is valid indefinitely.

The simplified licensing regulation provides that all activities eligible for simplified licensing are exempt from the need to have an environmental impact study. However in certain cases this contravenes what is required under the current environmental legislation, and also does not exempt companies from the need to apply for an environmental license, please see the Legal Framework Guide to Environmental Licensing in this series for further details.

Prior to licensing companies are expected to ensure that they are compliant with the relevant health and safety, labour and environmental requirements for their sector (dealt with in greater detail for commercial and industrial activities in sections 4.2 and 4.3 below). Inspections take place after licensing in the case of simplified licensing, meaning that the company must ensure it is fully compliant before submitting its license application.

Inspection of the company's premises takes place after licensing and is carried out in the same way as described below for vistorias. However the company is not required to apply for the vistoria or to be involved in the arrangement of it.

Fees are levied for simplified licensing process and are calculated at 50% of the minimum wage in force in the civil service.

#### **4.2 COMMERCIAL LICENSING (Decree 34/2013, of 2<sup>nd</sup> of August)**

The regulation of commercial activity licensing is to licensing subject to the exercise of commercial activities, licensing of foreign trade representation of activity within the Republic of Mozambique (branches, offices and agencies) and the registration of foreign trade operators to develop activities import and export. In this guide we will address the commercial agent licensing, cumulative trade, general trade, wholesale trade, retail trade, export, import, store, provision of services, other commercial activities not regulated by specific legislation and registration of foreign trade operators

#### **4.2.1 Application for a Commercial License**

The request for licensing of wholesale trade of exercise and/or retailing and/or the provision of services is done by submitting the form together as Annex IV to this Regulation and forms part thereof, duly completed and signed, accompanied unauthenticated copies of the following documents, and whose truth is conferred on delivery, on production of originals:

- Identity card or passport or driving license or voter registration card valid for national, and DIRE or passport with business visa or permanent residence permit valid for foreigners, provided that the authorization form allows exercise economic activity;
- Full certificate of registration of the legal entity;
- Single Number of Tax Identification - NUIT; and
- Power of attorney giving the subscriber powers if this is not specified in the registration certificate as an administrator or authorized representative.

The foreign trade representation permit application is made by submitting the form together as Annex 2, duly completed and signed, accompanied by uncertified copies of the following documents, and whose truth is conferred on delivery, on production of originals:

- Identity card or passport or driving license or voter registration card valid for national, and DIRE or passport with business visa or permanent residence permit valid for foreigners, provided that the authorization form allows exercise economic activity;
- Full certificate of legal entity registration if the applicant is a legal person;
- Power of attorney giving the subscriber powers if this is not specified in the registration certificate as an administrator or authorized representative;
- Positive opinion of the entity that oversees the area of the requested economic activity;
- Commercial Register, or its legal equivalent of the applicant in his country of origin and its certified translation; If this document does not include the reference to the quality of foreign trade operator, the applicant should also join sworn copy and translation of the charter stating such express mention;
- Power of Attorney in accredited as a proxy of the applicant in Mozambique which should include the respective powers of representation, the form of representation, time limit, and certified translations.

The application for registration as foreign trade operator is done by ticking the appropriate box on the form together as Annex 2. In the case of foreign trade operators not subject to this licensing scheme or subsequent application to the commercial license, the application for registration It is done by submitting the form together as Annex 2, duly completed and signed, accompanied by unauthenticated copy of his license and NUIT, and whose truth is conferred on delivery, on production of originals.

The processing of applications for commercial activity licensing involving foodstuffs, raw materials, components and products of chemical, biological or radiological that pose a potential risk to life, health and the environment, includes conducting survey for evaluation the application complies with the best interests of safety, hygiene and public health.

Investigation of the case for the trade license that does not require inspection must be completed, given the decision and notify the applicant within eight working days from the date of submission of the license application. Investigation of the case which requires the completion of survey must be completed, given the decision and notify the applicant within ten working days from the date of submission of the license application.

Calculated based on the minimum salary of civil service license fees are as follows:

- Wholesale trading year license, retail trade and services (regardless of the number of groups, classes or subclasses of CAE) - 1 minimum wage;
- Foreign commercial representation license - 2 minimum wages per year requested;
- Foreign Trade Operator Card - 25% of the minimum wage;
- Endorsements - 25% of the minimum wage;
- Reissue Alvará ou Licença - 50% of the minimum wage;
- Inspections (Vistoria) - 50% of the minimum wage.

#### **4.2.2 Inspections (Vistoria)**

The inspections is conducted by a committee that includes representatives of the licensing authority that presides, the body of the local administrative authority, the local health authority and there, the fire service, and if necessary of competent local authority in the matter, and it results in the development of a self that decides on the conditions for the start of operation of the establishment.

### 4.2.3 Issuance of the Alvará

After or during the inspection is issued a certificate of inspection, which is signed by all present. The company get Auto de vistoria, which may be required in future test facility inspections. The second survey of auto copy is used by the Provincial Directorate of Industry and Commerce to complete the permit issuing process.

The license will enable the holder to conduct business activity under the terms and conditions under which the application has been allowed and cannot be replaced or modified without permission of the licensor.

### 4.3 INDUSTRIAL LICENSING (Decree 22/2014 of 16<sup>th</sup> of May)

The rules governing industrial licensing provide for three distinct categories of license as well as a fourth category that requires only registration, and now a further category which is permitted to use the simplified licensing system described above. Three criteria are used in order to categorize a company: value of investment, KvA usage and number of workers.

The categories and the corresponding criteria are set forth below:

<b>Category</b>	<b>Initial investment (meticaís)</b>	<b>Potential installed or to be installed (KvA)</b>	<b>Nº de of workers</b>
Large scale	Less than 300.000.000,00	Less than 1000	Less than a 100
Medium scale	Less than 75.000.000,00	Less than 500	From 50 to 100
Small scale	Less than 7500.000.000,00	Less than 10	from 5 to 49
Micro scale	Less than 750.000,00	Less than 10	Less than 5

The authorization for the installation of small industrial establishments is the Provincial Governor's jurisdiction, and the authorization for installing middle of factories and large by the Minister of Industry and Trade, which may delegate powers to the Governor the Province, taking into account prevailing conditions and local capacities and the degree of technological complexity of certain industrial activities. The micro scale industrial establishments not

require authorization and must only be carried out your registration before the activity. Registration shall be made at the Local Authority for Industry and Commerce or, failing that, in the District Administration where is located the industrial establishment.

#### **4.3.1 Application for the Alvará**

The application is made by way of a letter addressed to either the Minister or the Provincial Director of Industry and Commerce or, in provinces where these exist to the One Stop Shop (Balcão Único – BaU). The letter must include the following:

- Topographical plan, including the construction of buildings, access roads, the rustic and urban properties, roads and the adjoining waterways, in the case of new construction or expansion of a business;
- Plant industrial facility including workshops, warehouses, depots and offices, locker rooms, cafeterias, toilets, sewage and communications as well as elevations and cuts, fireplaces, stairs, tracking devices, machines, firing installations, mechanical power or production vapor, liquid storage, solid or gaseous fuels, gas containers under pressure, furnaces, forges, kilns, tanks, paint preparations, hoists, conveyors, cranes, hoists, winches and all other facilities and equipment that are relevant to the laboring of the establishment;
- Descriptive of the project memory, which should indicate the processes and manufacturing diagrams, the raw material used, the production capacity and product compliance with legally established standards, the machinery and its specification, the number and sex of the workers to be hired, the total electrical power to install the safety devices and the means provided to address or mitigate own drawbacks of laboring, security facilities, first aid and social reasons, the water supply system , the approximate number of toilets, showers and toilets, the plant's sewage system, installation for wastewater treatment and the initial investment;
- Environmental permit or exemption certificate issued by the entity that oversees the environmental field;
- Operation of electrical installations license issued by the entity that oversees the energy sector to be submitted only at the time of inspection request or issuance of the license.

The decision on the application shall be taken no later than 7 working days to industrial establishments large and 5 working days for medium industrial establishments and small,

from the date of receipt. It should be noted, however, that the statute requires establishments to large industries, the licensing authority shall ensure the completion of the analysis of the project within 14 days from the date of authorization including notification of the applicant.

Following approval the company has 180 days to begin to install or construct the factory. Once the installation or construction is complete the company must make a written request for an inspection before operations can begin.

During the waiting period while the project plan is being evaluated, or after it has been approved and installation or construction is underway, the company can request a declaration from the National Directorate of Industry or Provincial Industry Department confirming the status of the project and enabling the company to proceed with other administrative processes.

#### **4.3.2 Inspections (Vistoria)**

As is the case for a commercial alvará an inspection must be requested in writing. The inspection should take place within 6 days of receipt of the request. Within 4 days after the inspection a report (auto de vistoria) signed by two thirds of the inspectors must be issued.

If minor problems are found during the inspection conditional approval may be given for the start of operation. The problem must be fixed in the time limit given on the inspection report, and a follow-up inspection carried out.<sup>54</sup>

Payments for inspections and the issuance of alvarás are required. These fees include all necessary payments. Payments are only made following a favorable decision and are made at the nearest representative office of the Ministry of Finance (the Repartição das Finanças) using a form known as Modelo B or by direct deposit into the Provincial Directorate of Industry & Commerce's bank account at the local office of the Central Bank.

As is the case with commercial licensing, companies are often requested to provide transport for the inspection team to site. It is worth noting that the fee table for industrial licensing includes a per kilometer rate to cover transport for inspectors.

### 4.3.3 Issuance of the Alvará

Following the issuance of an unqualified, or even a mildly qualified inspection report, an alvará is issued. Operations must begin within ninety days of the issuance of this license.

## 4.4 FAQs

### **1. I have my Operating License. Can I start trading now?**

Basically, yes. However there are a number of other requirements to comply with, including those of the Finance and Labor Departments.

### **2. During my inspection the inspectors requested payment for travel to the site. Is this OK?**

No. All costs to cover the inspection are paid to the local office of the Ministry of Finance or directly into the bank account or to the finance section of the relevant departments (Industry and Commerce and CHAEM). Receipts are given. No payments are made directly to inspectors.

### **3. What are the inspectors looking for?**

As mentioned above there is no clear definition in the law of what the inspectors can ask to see. As a general guideline premises should have:

- i.** A separate entrance (if the office is in a building housing other companies)
- ii.** Separate toilet facilities for staff and clients, and where possible for male and female
- iii.** Adequate ventilation and light
- iv.** Fire extinguishers and/or sand buckets.

For example the decree governing industrial licensing states that the premises must satisfy the technical/functional requirements of that particular industry as well as the hygiene, convenience and safety needs of the workers. The National Directorate of Industry has recently published an “Industrial Guide” which contains comprehensive, recommendations for industrial premises. The Industrial Guide covers many aspects of health and safety, but bear in mind this is a guide rather than a piece of legislation.

Inspectors may also ask to see the company's horário de trabalho and employment contracts. As a practical matter it may not be possible to provide these as an alvará is a prerequisite for issuing a horário de trabalho and the company is likely not to be employing people before it has been licensed to begin operations.

**4. I have been told that the plan of my premises must be done on special map paper/must be an architects' drawing/must be of a certain size or shape/must include a detailed written description. Is this true?**

The law does not define what type of plan is required stating only that a "drawing" of the premises must be provided. In practice this plan can be a simple sketch, drawn by hand or on a computer, and should include the purpose of each room i.e. office, toilet etc. as well as measurements. This adequately covers the requirement of providing a description. There is no requirement to submit architect's drawings or plans of a particular size or on a particular type of paper.

**5. I have been told that I have to provide proof that the person/company I am renting premises from has the right to rent those premises. Is this correct?**

The law has no such requirement. In practice, however, it is always as well to request such documents for your own peace of mind when renting a property.

**6. I have a complaint about the way my process was handled/my inspection was carried out. What can I do?**

Each government department has a Complaints Book (Livro de Reclamações) for the general public. If you have a complaint, visit the department in question and request the book. You should record your complaint in as much detail as possible (e.g., names, times, locations).

## **4.5 CHECKLIST AND FLOW CHARTS**

### **4.5.1 Simplified Licensing**

Application for an alvará

- Completion of a form available from the Balcão Único;
- Provision of notarized copies of all documents proving incorporation and registration (escritura, BR or Certidão de Registro Definitivo) plus a notarized copy of the ID documents of the company quota holders, and a copy of the proof of issuance of the company NUIT by the Ministry of Finance.



#### **4.5.2 Commercial Licensing**

##### Application for an alvará

- Letter of request addressed to Minister or Provincial Governor
- A plan of the premises to be licensed.
- Notarised copy of estatutos and/or BR and/or registo comercial (in either provisional or definitive form)
- Lease Agreement or proof of ownership
- Notarised copy of the identity document of the person signing the application
- Payment for the license

##### Application for Inspection

- Request letter
- Copy of notification of approval of application signed by Minister or Governor
- Payment

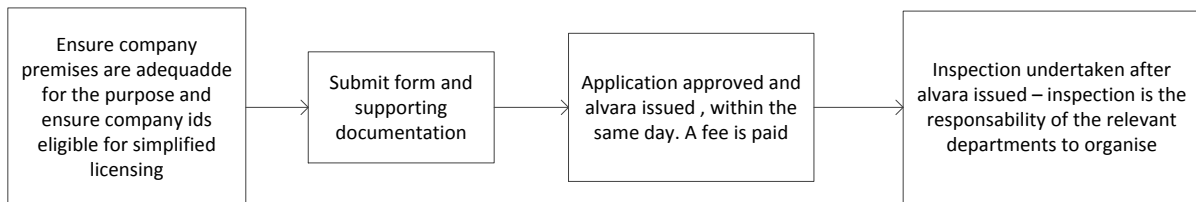
#### **4.5.3 Industrial Licensing**

##### Application for an alvará

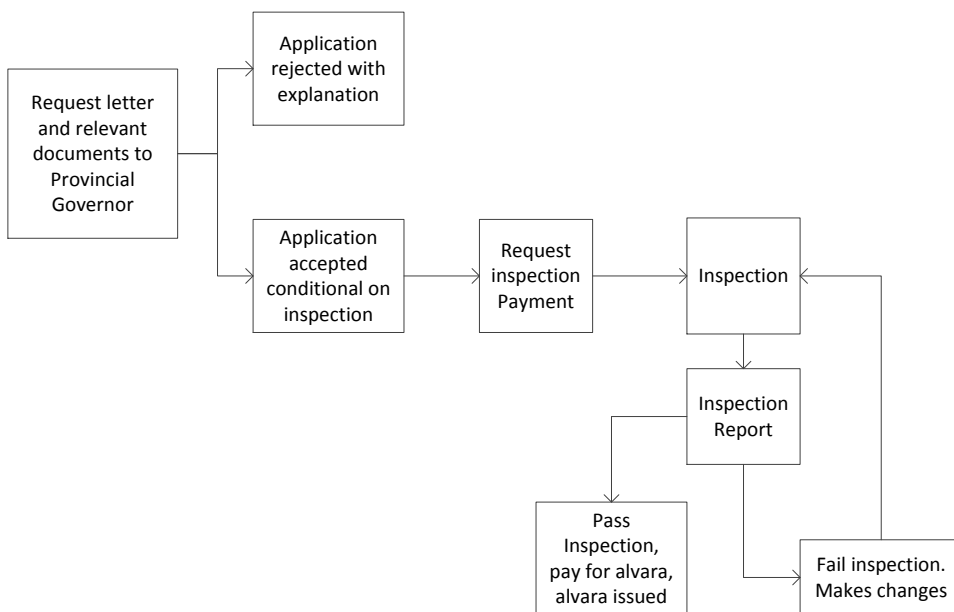
- Letter of request addressed to Minister or Governor
- Topographical plan of the area
- Plan of infrastructure
- Written description containing details of:
  - i. Processes and factory diagrams
  - ii. Raw materials including specifications and quantities
  - iii. Production capacity
  - iv. Machines and equipment including specifications
  - v. No. and sex of those to be employed
  - vi. Electrical potential to be used or installed
  - vii. Worker security
  - viii. Security, first aid and social installations
  - ix. Water supply
  - x. No. of washroom facilities
  - xi. Drainage network
  - xii. Effluent treatment plan
  - xiii. Initial investment

- Environmental impact study (if required)
- Lease agreement or land usage title
- Construction license where relevant
- Payment

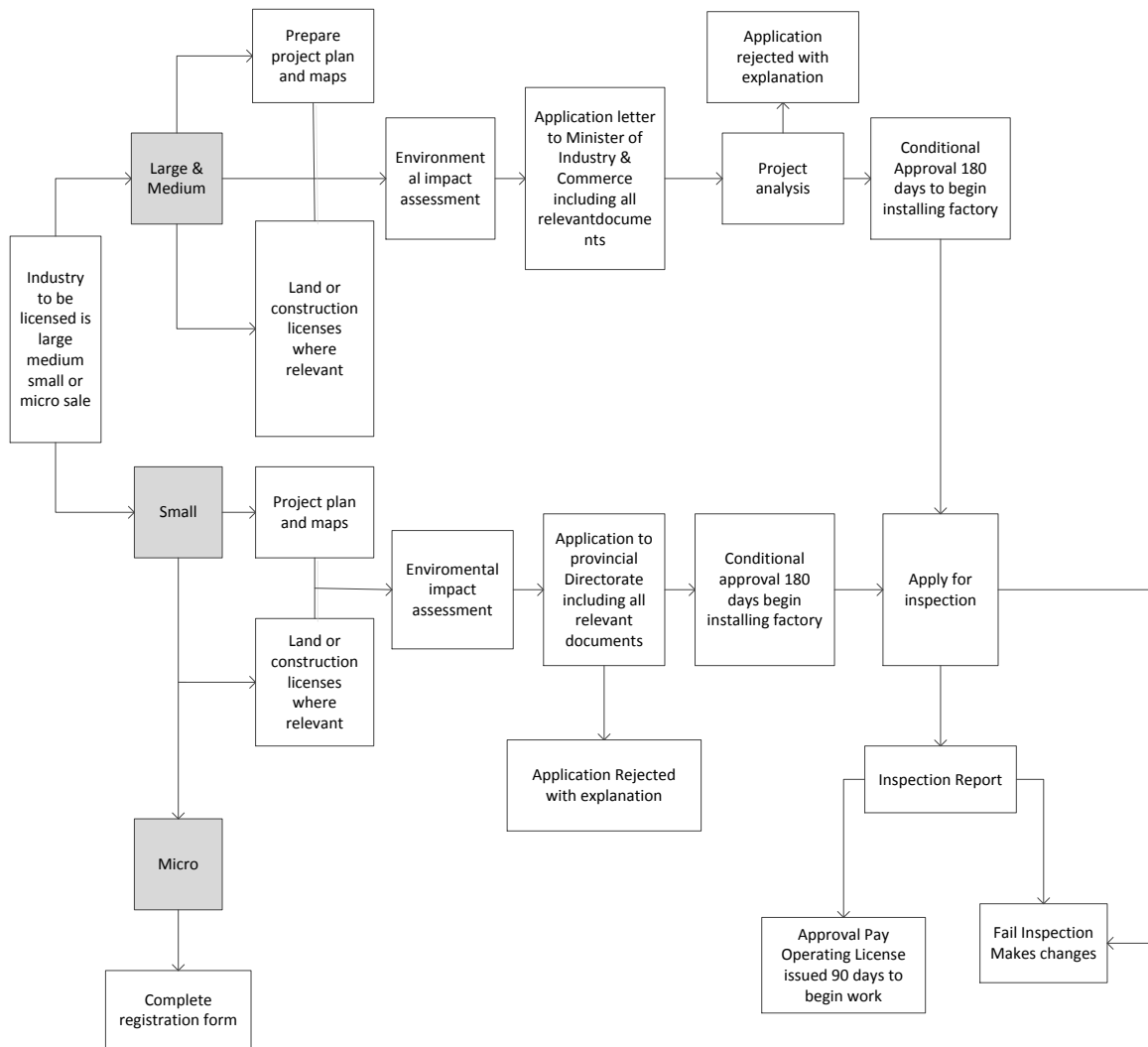
#### 4.5.4 Flow chart for simplified licensing



#### 4.5.5 Flow chart for obtaining a Commercial Alvará



#### 4.5.6 Flow chart for obtaining an Industrial Alvará



## 5. OTHER LICENSES AND AUTHORIZATIONS

There are a range of other procedures and requirements which must be complied with before a company can be considered to be operating legally. These include, tax, employment, environmental, import & export and municipal requirements. We suggest that you use the other manuals in this series to ensure that your company is fully compliant in all necessary areas.

Here we have restricted ourselves to mentioning procedures to be followed prior to opening the company.

### 5.1 Work Schedule (Horário de Trabalho)

Two copies of a form are purchased from government stationers or the Ministry of Labor and completed detailing the weekly hours which the company will work. These hours must be in

keeping with the requirements of the Labor Law. The managing director or other authorized representative of the company then signs the schedule. This is submitted along with a letter bearing a notarized signature requesting approval of the schedule. Approval takes approximately 30 days. A copy of the form is then returned to the company and must be on display at all times.

5.2 Declaration of start of activity A letter must be submitted to the Provincial Directorate of Labor informing it that the company has begun operations. A copy of this duly signed and stamped must be retained by the company for future inspection.

### 5.3 Minute Book (Livro de Actas)

Each company must keep a book in which key decisions of formal meetings of the quota holders are recorded. Before being used, this book must be tendered to the Repartição das Finanças and to the local court as well as to the Commercial Registry or conservatória as the official minute book. The minute book then becomes a legal document. Minutes signed by all quota holders are binding among them.

### 5.4 Invoice Books (Livro de factura)

Unless you are using computer-generated invoicing (in which case there are a number of rules which must be followed) invoice and receipt books may only be printed by a registered government printer. Once the company NUIT is available a letter is submitted to a registered government printer requesting printing of a set of invoice and receipt books.

### 5.5 Workers Name List (Relação Nominal)

This form must be filled out in four identical copies and submitted to the Provincial Directorate of Labor. The form contains details of workers' salaries and categories as well as other information. Two copies are retained by the Directorate and two are returned to the company. One copy is displayed at the company's premises and a second is filed for use the following year, when it is submitted along with the one for the New Year. Electronic forms for this document are available from ACIS.

### 5.6 Signage

Any alterations to your work place such as the putting up of signs, flags, umbrellas, posters etc. are all subject to licensing by the municipal council. Licenses are payable for among other things:

- Logos on vehicles
- Company signs
- Flags
- Fences.

### 5.7 Flag Tax

If your company flies flags from the office you are liable for an annual tax per flag. These licenses are available from the Municipal Council. If flags are flown they must always be accompanied by a Mozambican flag that must be licensed but there is no charge.

### 5.8 Salaries

Workers are generally paid at the end of each month. A payroll (folha de salários) is prepared and is signed by each worker. Each worker must be given a pay slip detailing all payments and deductions, for each wage paid. Income tax and social security payments are withheld at the source. Income tax is paid to the Provincial Directorate of Finance by the 20th of the following month. Social Security is paid to the Social Security Department by the 10th of the following month. The INSS forms contain workers names and individual ID numbers as found on their Contributor Card. Electronic versions of the INSS form are available from ACIS.

### 5.9 IVA

Payments will be calculated by your técnico de contas based on the previous month's trade and must be paid to the repartição by the 30th of each month Payment is accompanied by a form completed in four copies.

### 5.10 Rubbish Tax

Paid monthly or annually per calendar year to the Municipal Council. Be certain to keep receipts as inspections can take place.

### 5.11 Fire Tax

Payable to Municipal Authorities as a percentage profit. Therefore this tax is only applicable in a year in which a company declared a profit. This tax is apparently not levied in Maputo.

### 5.12 Economic Activity Tax

Payable to any Municipal Council in which the company is operating – if the company has offices in more than one municipality tax is paid in each. Rates depend on individual municipal bylaws.

#### 5.13 IRPS Declaration

An individual IRPS declaration must be completed each year on a Modelo 10 form. To facilitate this companies are required to provide workers with a breakdown of net and gross salaries as well as tax deductions at the end of each fiscal year. The declaration takes into consideration the employee's marital status, salary and also any benefits such as use of house or vehicle, as well as any other sources of income.

#### 5.14 Foreign Employees

Residence documents (DIRE or Residência Precária) are renewable annually and must be submitted at least 30 days prior to expiry date. Work permissions or authorizations are renewed bi-annually and should be submitted at least 30 days prior to expiry. Allow at least six weeks for collection of necessary documentation prior to submission.

#### 5.15 Leave Plan (Plano de Férias)

This document which details holidays for all eligible staff must be prepared in accordance with the Labor Law and displayed at the company premises from January 30th each year.

#### 5.16 Workers List (Relação Nominal)

Four copies are prepared and submitted by 31st March along with the second copy of previous year's form.

#### 5.17 Accounting

A number of documents must be submitted on instruction from the técnico de contas. These include a profit forecast and a full statement of the previous year's accounts.

#### 5.18 General Assembly (Assembleia Geral)

This is an annual legal requirement. Quota holders must be must be given advance notice in accordance with the rules defined in the estatutos. Decisions taken must be minuted in the livro de actas and signed by those in attendance. This meeting is usually used to sign off the year-end accounts as well as dealing with other relevant issues.

*There are a number of other payments and licenses which must be paid or requested each year depending on the type of business you are in and the government department responsible for that sector. It is advisable to submit letters to sectoral departments requesting information on any special rules that apply to your area of business.*

## **5.19 Checklist**

### **5.19.1 Start of Business (After receiving alvará)**

<b>Item</b>	<b>Departament</b>	<b>Date</b>
Tax registration (IVA e IRPS)	Finance	Immediat
Invoice & receipt books	Government stationers	Immediat
Social Security registration	INSS	Immediat
Inform Labor department of start of operation	Labor	Immediat
List of workers (relação nominal)	Labor	Immediat
Work schedule (horário de trabalho)	Labor	Immediat
Leave schedule	Labor	Immediat
Collective insurance	Insurance company	Immediat
Flag, signage, economic activity taxes	Municipal council	Immediat
Copies of important company documents		Immediat
Display key documents – holiday schedule, work timetable, list of workers, operating license, inspection report, tax registration document		As soon as possible
Book of meeting minutes (livro de actas)	Repartição das Finanças Court and Conservatória	As soon as possible

### 5.19.2 Things to do monthly

<b>Item</b>	<b>Departamento</b>	<b>Data</b>
Wage schedule (folha de salários)	Labor	By 10th of month
Social security	INSS	By 10th of month
IRPS	Finance	By last day of month
IVA	Finance	Até ao último dia do mês
TDM, Water and electricity	Respective utility departments	By last day of month

### 5.19.3 Things to do annually

<b>Item</b>	<b>Department</b>	<b>Date</b>
Municipal Fees	Municipal Council	Check with each Council
Economic Activity Tax	Municipal Council	By end January, in some municipalities payment in instalments is permitted
IRPS declaration (Model 10)	Finance	By end February
Plano de férias	Labor (it is not necessary to submit this document, only to display it)	By 30th January
Relação nominal	Labor	By 31st March
Year end accounts (prepared by accountant)	Finance	By 31st March
Residence permits (foreign workers)	Immigration	Renew annually, submit at least 30 days before expiry date
Work permits (foreign workers)	Labor	Renewable bi-annually
Workers individual income tax declarations		End December or early January

## ANNEX 1 – TABLE OF ACTIVITIES SUBJECT TO SIMPLIFIED LICENSING

### **Agriculture, Animal Breeding, Hunting, Forestry and Fisheries:**

- Agriculture, Animal Breeding, Hunting and Activities of Related Services



- Agricultural Activities in an area to 350ha with irrigation, and to 1000ha without irrigation.
- Animal Breeding
- Beef cattle rearing to 50 heads;
- Pig breeding (to 3000 pigs and/or to 100 breeding pigs); and
- Breeding of other animals (poultry farming to 100,000).
- Activities of services related to agriculture and stock breeding, except veterinary services
- Activities of services related to agriculture (irrigation systems for areas to 350ha)

### **Fisheries and Aquaculture**

- Fisheries
- Artisanal Fisheries

### **Processing Industries (micro and small-size units, with the exception of those of the food, beverages and pharmaceuticals sector):**

- Clothing industry
- Manufacture of clothing, except hairy skin articles;
- Manufacture of working clothes and uniforms;
- Manufacture of other outerwear in series;
- Manufacture of other outerwear made to order;
- Manufacture of underwear;
- Manufacture of other clothing and accessories;
- Manufacture of hairy skin articles, which do not involve washing, bleaching, mercerising or dyeing of fibres and textile; and
- Manufacture of knitted articles, which do not include washing, bleaching, mercerising or dyeing of fibres and textile.
- Wood and bark industries, except furniture;
- Manufacture of basketry and raffia works.
- Timber sawing, planning and impregnation; and
- Timber sawing and planning.
- Manufacture of articles of wood and bark, of raffia and basketry, except furniture
- Manufacture of carpentry products for building purposes
- Manufacture of wooden packaging;
- Manufacture of other wood, basketry and raffia articles; bark industry;
- Manufacture of basketry, raffia and related articles; and

- Bark and other wood products industry.
- Printing and reproduction of recorded media.
- Printing and activities of printing-related services Printing;
- Printing preparation and related activities; and
- Reproduction of recorded media.
- Manufacture of rubber and plastic articles
- Manufacture of rubber articles that do not involve elastomers
- Manufacture of rubber products;
- Manufacture of plastic articles;
- Manufacture of plastic sheets, pipes and profiles;
- Manufacture of plastic packaging; and
- Manufacture of plastic articles.
- Manufacture of other non-metallic mineral products
- Manufacture of non-metallic mineral products, N.E.C.
- Manufacture of clay and ceramic products, for building;
- Manufacture of bricks, roofing tiles and other clay products for building;
- Manufacture of cement blocks for building;
- Manufacture of marble articles and articles of similar rocks; and
- Manufacture of stone articles.
- Manufacture of metallic products, except machines and equipment
- Manufacture of metal building components, tanks and vapour generators
- Manufacture of metal building components;
- Manufacture of metal building structures;
- Manufacture of doors, windows and similar metal components;
- Manufacture of furniture and mattresses;
- Manufacture of wooden furniture;
- Manufacture of metallic furniture;
- Manufacture of mattresses; and
- Manufacture of furniture.
- Other processing industries:
- Manufacture of jewellery, goldsmith articles, trinkets and similar articles
- Manufacture of jewellery, goldsmith articles and similar articles (includes coinage);
- Manufacture of trinkets;

- Manufacture of musical instruments;
- Manufacture of sports equipment;
- Manufacture of games and toys;
- Manufacture of medical-surgical instruments and material;
- Processing industries;
- Manufacture of brooms, brushes and paintbrushes;
- Manufacture of pens, pencils and similar articles;
- Manufacture of wooden coffins; and
- Repair, maintenance and installation of machines and equipment
- Repair and maintenance of metallic products, machines and equipment
- Repair and maintenance of metallic products (except machines and equipment);
- Repair and maintenance of machines and equipment;
- Repair and maintenance of electronic and optical equipment;
- Repair and maintenance of electrical equipment;
- Repair and maintenance of transport equipment, except motor vehicles;
- Repair and maintenance of other equipment; and
- Installation of industrial machines and equipment.

**Building:**

- Property development (development of real estate projects);
- Building construction
- Property development;
- Micro and small size real estate activities; and
- Consulting activities in the civil construction, bridges, hydraulic works and small-size building yard areas

**Wholesale and retail trade; repair of motor vehicles and motorcycles:**

- Retail trade, except of motor vehicles and motorcycles
- Retail trade of foodstuffs, beverages and tobacco, in specialized establishments
- Retail trade of foodstuffs, including tinned food, bread, milk and milk products, fresh products including fruit and vegetables, potatoes, tomatoes, onions, fish, shellfish, meat and its sub-products, in specialized establishments
- Retail trade of beverages in specialized establishments; and
- Retail trade of mineral oil, lubricants and paraffin, in specialized establishments
- Retail trade of other equipment for domestic use, in specialized establishments

- Retail trade of tools, ironware and building materials and chemist's articles, including paints, varnishes, glass, paintbrushes and similar articles, timber and its sub-products, in specialized establishments.
- Retail trade of electrical articles and radio sets, home appliances and refrigerators of any kind, torches, lamps and dry batteries, electric and ornamental lamps, discs and tapes, including audio cassettes, in specialized establishments.
- Retail trade of office furniture and typewriters, calculators, and similar articles, computer equipment, its accessories and separate parts, in specialized establishments.
- Retail trade of electrical appliances, glass and porcelain articles for domestic use, toys, cutlery and trinkets including toys and cutlery, mats, carpets for the bathroom, brooms and brushes, typically regional arts and crafts. Cleaning and similar articles for domestic use, non-electrical grills and toasters, paraffin stoves and accessories, corks, wooden spoons and artificial flowers, ladies' handbags, wallets, purses and waist-belts. Travel, shed and saddler articles. Typically oriental articles, tapestry, oilskins and upholsterer articles. Furniture, mattresses and similar articles, floor coverings, picture-frames and ornamental articles. Gas and petroleum refrigerators, stoves and heaters, pressure cookers. Musical instruments, scores and other musical articles. Souvenirs and toys. Vases, large vases, plastic flower-vases, porcelain, glass, plastic trinkets, metal and glasses and all accessories related to ornamental flowers, in specialized establishments.
- Retail trade of cultural and entertaining goods, in specialized establishments
- Retail trade of bookshop and stationer's articles, book binding, office supplies, including drawing and painting material, school material, excluding furniture and machines, in specialized establishments;
- Retail trade of photographic and optical articles and precision instruments, television sets, videos, videocassettes, communication equipment and materials, in specialized establishments.
- Retail trade of non-motorised bicycles and their accessories and separate parts, including the respective tyres and inner tubes, in specialized establishments
- Retail trade of other products, in specialized establishments
- Retail trade of clothing, footwear and leather articles, in specialized establishments;
- Retail trade of cloths, fashion-ware and ready-made articles, men's, women's and children's clothing, trinkets and similar fantasy embellishments, aprons, dusters, dishcloths and socks, curtains and their accessories, in specialized establishments.

- Retail trade of footwear and footwear articles, in specialized establishments;
- Other retail trade of new products, in specialized establishments;
- Retail trade of watches, goldsmith articles and jewellery, in specialized establishments; and
- Rural retail trade in establishments like: canteen, tent, stall or stand and itinerant trade.

**Lodging, catering and similar activities:**

- Lodging
- Hotel establishments
- Hotel establishments with restaurant;
- One and two-star boarding-houses; and
- One-star motels
- Catering and similar activities
- Supply of meals for events and other meal services
- Drinking establishments;
- Cafés and confectioner's;
- 1st and 3rd class pubs and bars; and
- Other drinking establishments (tearooms)

**Information service activities**

- Data processing activities, hosting of information and related activities; web portals
- Internet café services.

**Real estate activities:**

- Real estate activities
- Micro and small size real estate activities

**Scientific, technical and similar consulting activities:**

- Artistic, stage, sports and diversion activities
- Video club services, sale of arts and crafts articles, dance teaching; artisans, artists and traders of works of art.

**Repair of computers and of personal and domestic goods**

- Repair of personal and domestic goods
- Repair of television sets and similar consumption goods;
- Repair of household appliances and of other domestic equipment
- Repair of footwear and leather articles;
- Repair of furniture and similar items of domestic use;

- Repair of personal and domestic goods;
- Repair of watches and jewellery; and
- Repair of non-motorized bicycles and tricycles;

**Other personal services**

- Hairdresser's and beauty care activities;
- Decoration and event animation activities, photocopy services;
- Activities of translators and interpreters; and
- Marketing and advertising activities.


ANNEX 2 FORM TO BE COMPLETED WHEN APPLYING FOR SIMPLIFIED  
LICENSE

ANEXO IV  
Formulário

a) ..... Formulário para Licenciamento de Actividades Comerciais (e Averbamentos) (A preencher pelo Proponente) NÚMERO DE SEQUÊNCIA				
REQUERENTE				
Nome da empresa ou empresário				
Objecto da empresa ou empresário				
Sede da empresa ou empresário	Rua/Avenida, Número, Cidade, Distrito			
NUIT da empresa ou empresário				
Número de entidade legal da empresa				
Nome do requerente				
Documento de Identificação Pessoal e Número do requerente				
Domicílio do requerente	Rua/Avenida, Número, Cidade, Distrito			
Contacto	Telefone Fixo	Celular	Email	
<b>Em Anexo:</b> (assinalar o aplicável)				
Identificação para o exercício do comércio a grosso, a retalho e prestação de serviços	BI	Passaporte	Carta de Condução	Cartão de Eleitor
	DIRE	Passaporte com visto de negócios		
	Certidão de registo da entidade legal	Procuração assinante		
Identificação para as representações comerciais estrangeiras	BI	Passaporte	Carta de Condução	Cartão de Eleitor
	DIRE	Passaporte com visto de negócios		
	Certidão de registo da entidade legal	Procuração assinante		
	Parecer positivo da tutela	Registo comercial ou fiscal da entidade requerente e		
	Procuração com poderes de representação e limite temporal e tradução			
Identificação para os operadores de comércio externo	BI	Passaporte	Carta de Condução	Cartão de Eleitor
	DIRE	Passaporte com visto de negócios		
	Certidão de registo da entidade legal	Procuração requerente		
Averbamentos, Renovações e Operador do Comércio Externo	Licença original/base			
ACTIVIDADE COMERCIAL				
(assinalar a(s) pretendida(s))				
Actividade	Comércio a grosso	Comércio a retalho	Prestação de Serviços	
Grupo(s) CAE e respectivas subclasses		<b>Inclui</b> produtos alimentares ou matéria-primas, componentes e produtos de origem química, biológica ou radiológica que apresentem um risco potencial à vida, saúde e ao meio ambiente	<b>Não inclui</b> produtos alimentares ou matéria-primas, componentes e produtos de origem química, biológica ou radiológica que apresentem um risco potencial à vida, saúde e ao meio ambiente	
Actividade	Representação Comercial			
Forma	Delegação	Agenciamento		
Objecto				
Grupo(s) CAE e respectivas subclasses		<b>Inclui</b> produtos alimentares ou matéria-primas, componentes e produtos de origem química, biológica ou radiológica que apresentem um risco potencial à vida, saúde e ao meio ambiente	<b>Não inclui</b> produtos alimentares ou matéria-primas, componentes e produtos de origem química, biológica ou radiológica que apresentem um risco potencial à vida, saúde e ao meio ambiente	
Duração	anos			
Localização do estabelecimento	Rua/Avenida, Número, Cidade, Distrito			
OPERADOR DE COMÉRCIO EXTERNO				
(assinalar a(s) pretendida(s))				
Licença	Nome			
	Validade			
Operação	Importação	Exportação		

## ANEXO V

### Modelo de Alvará e de Licença de Representação Comercial Estrangeira

	
REPÚBLICA DE MOÇAMBIQUE <b>MINISTÉRIO DA INDÚSTRIA E COMÉRCIO</b>	
EXERCÍCIO DE ACTIVIDADE COMERCIAL Decreto nº /2013	
Tipo de actividade	
ALVARÁ COMERCIAL Nº OU LICENÇA DE REPRESENTAÇÃO COMERCIAL Nº	
Nome do titular	está autorizado a exercer a actividade de <u>comércio a grosso /</u> <u>comércio a retalho / prestação de serviços</u> , das subclasses CAE
	PARA as repr: representação sob a forma de <u>com / sem direito a importação / exportação</u>
Nome do Representante no caso das Representações Comerciais Estrangeiras	
Validade da Licença para o caso das Representações Comerciais Estrangeiras	
Localização do Estabelecimento	
Para se constar, se lavrou o presente título que é por mim assinado e segue devidamente autenticado.	
Autoridade Licenciadora	
	Local e Data
	Assinatura
	Cargo
O titular da licença deve: <ol style="list-style-type: none"> <li>1. Cumprir com as condições e requisitos legais de laboração, higiene, segurança, saúde e segurança pública e meio ambiente e de ordenamento do território</li> <li>2. Observar o horário de trabalho do estabelecimento;</li> <li>3. Manter em arquivo a documentação pertinente à constituição e registo da entidade legal, bem como à propriedade ou locação do estabelecimento comercial</li> <li>4. Colaborar com a autoridade licenciadora prestando a informação e dados que lhe forem solicitados para e durante a vistoria</li> <li>5. Comunicar à autoridade licenciadora com a antecedência mínima de 10 dias úteis:                         <ol style="list-style-type: none"> <li>a) A alteração de dados da licença: da firma e sede do titular da licença (incluindo o trespasse), do objecto do pacto social de alterações ao imóvel aonde funciona o estabelecimento, e do mandatário, no caso das representações comerciais estrangeiras;</li> <li>b) O encerramento temporário e definitivo de quaisquer dos seus estabelecimentos e a suspensão de actividades</li> <li>c) A alteração do horário de funcionamento dos estabelecimentos</li> </ol> </li> </ol>	
<b>Página 2</b>	
<b>AVERBAMENTOS</b>	
REF A	Novo Estabelecimento
REF B	Nova Actividade
REF C	Alteração de dados da licença
<b>RENOVAÇÃO</b>	
REF D	Da Licença de Representação