

This NL is based on the legislative framework in force on the date of its publication. TTA will update the information in this NL when necessary and if additional regulations are published on the measures to contain the spread of the new Coronavirus that is responsible for the COVID-19 pandemic.

MOZAMBIQUE

Global Vision, Local Experience.

02 FEBRUARY 2021

CORONAVIRUS: SITUATION OF PUBLIC CALAMITY

The Decree currently in force has increased the distance to 2 metres, as it seeks to further prevent the spread of the virus.

I. BACKGROUND:

On 4 September 2020, the country confirmed the declaration of the state of public calamity and activation of the red alert by Decree 79/2020 of 4 September, which was revised for the first time on 23 November by Decree 102/2020.

The second and third revisions were made on 18 December 2020 (by Decree 83/2020) and on 13 January 2021 (by Decree 01/2021). This newsletter will address the latter by presenting a comparative analysis regarding the earlier legislation.

II. CHANGES TO THE RULES:

The first amendment introduced by this legislation relates to the degree of social distancing. Decrees 102/2020 of 23 November and 83/2020 of 18 December established a minimum distance of 1.5 metres, but the Decree currently in force has increased the distance to 2 metres, as it seeks to further prevent the spread of the virus.

■ The quarantine rules

Decree 102/2020 of 23 November provided that proof of a negative Covid-19 test carried out in the country of origin in the 72 hours before departure would lead to exemption from the rules on quarantine. However, under Decree 83/2020 of 18 November, and Decree 01/2021 of 13 January, the test must be done in the 96 hours before departure. This means the lifetime of the Covid-19 test has been increased. In other words, under the previous rules, passengers needed a negative test done and received within 3 (three) days prior to their journey, but the current rules accept tests requested and received within a period of 4 (four) days before travelling.

■ **Public and private events and commercial leisure and similar establishments:**

The rules on public and private events and commercial entertainment establishments have seen the greatest number of changes, because they are intrinsically linked to people's everyday behaviour. In fact, after many months of prohibition, Decree 102/2020 of 23 November authorised (i) cultural activities in cinemas, theatres, museums, galleries, cultural centres, auditoriums and similar establishments, and in tourist resorts and similar establishments, (ii) sports in gyms, (iii) the reopening of casinos, (iv) the reopening of public swimming pools, and (v) the reopening of monuments and similar.

The following decree (of 18 December) maintained the authorisation for the activities described here and also authorised the reopening of bars and stalls selling alcoholic beverages between 9 am and 4 pm from Sunday to Thursday and from 9 am to 7 pm from Friday to Saturday.

Due to the high number of local infections in recent weeks, the law currently in force has closed all these activities, except for monuments and bottle stores, with the latter only remaining closed on Sundays.

The authorised number of participants in events was drastically reduced to 30 in closed or semi-open spaces and to 50 in open-air venues, with a distance of 2 metres required in all cases.

Under Decree 102/2020 of 23 November and Decree 83/2020 of 18 December, nightclubs and games rooms remained closed (with the exception of casinos), but the new law has closed all three types of venues. In other words, the opening of casinos is expressly prohibited under current legislation.

The three decrees in question have all placed different limits on the number of participants at private events.

In the first, the maximum limit was 40. In the second, there was a significant increase and the type of venue was of relevance. Thus, for events held in closed or semi-open spaces (rooms, tents or equivalent), the limit was 50 participants and 150 in open-air venues.

However, there was quite a significant increase in cases of local transmission of the virus between the second and third decrees. As a result, the authorised number of participants in events was drastically reduced to 30 in closed or semi-open spaces and to 50 in open-air venues, with a distance of 2 metres required in all cases.

After a long period of closure, Decree 102/2020 of 23 November reopened beaches and this authorisation was maintained in Decree 83/2020 of 18 December. However, musical performances, the sale and consumption of drinks and their consumption by minors (except when accompanied by adults) were banned. In contrast, the legislation now in force, Decree 01/2021 of 13 January, provides that access to beaches as a place of recreation for bathers is forbidden, although it does maintain the authorisation to walk and exercise in places with pedestrian access, such as pathways and pavements away from built up areas.

Food stalls may only operate from 6 am to 5 pm, alcohol sales are prohibited and private social events must end by 8 pm.

The Decree now in force also makes changes regarding public and private events, and commercial entertainment establishments and similar. First, it expressly states that the opening hours of all commercial establishments, including large stores, are from 8 am to 6 pm from Monday to Thursday and from 8 am to 3 pm from Friday to Sunday. The sale of alcoholic beverages in these establishments must respect the same opening hours as bottle stores. Regardless of their location, these stores may only open between 9 am and 1 pm and the consumption of alcoholic beverages on site and home delivery services are prohibited.

Food stalls may only operate from 6 am to 5 pm, alcohol sales are prohibited and private social events must end by 8 pm.

Restructuring services must operate from 6 am to 8 pm, Monday to Friday, and from 6 am to 3 pm on Saturdays and Sundays.

All open door licences are cancelled and there is a suspension on the granting of new licences, the issuance of new bottle store licences, the sale of all types of alcoholic beverages, and catering services.

■ Religious services and celebrations and funeral ceremonies:

The first decree stated that for services, conferences, meetings and collective religious celebrations, the number of participants could not exceed 50% of the maximum capacity of each venue, provided it did not exceed 150 persons, and the protocol issued by the health authorities had to be respected.

The second decree of 18 December removed the expression "provided it did not exceed 150 persons". This meant it was possible that the number of participants in religious services and celebrations would increase, because the only criterion for evaluation was "not to exceed 50% of the maximum capacity of the venue".

The third and current decree has simply reduced the number of participants to 50.

As far as funeral ceremonies are concerned, the decree currently in force states that the number of participants in funeral wakes and ceremonies should be no more than 20, as opposed to the 50 previously authorised. All three legal decrees agree that, if the funeral is for a victim of Covid-19, the number of participants must not exceed 10.

This article states that failure to comply with the measures imposed by it is considered a crime of disobedience. This crime is punishable by a penalty of 3 to 15 days' imprisonment, always replaced by a corresponding fine.

■ The functioning of public and private institutions:

In contrast with the first decree, the second and the third (now in force) decrees both state that, in places where the public is served, the institution must define the maximum capacity and display clearly visible signs in their premises. The managers of these institutions are responsible for them complying with the applicable rules.

■ Disobedience:

Decree 01/2021 of 13 January introduces a completely new article on disobedience. This article states that failure to comply with the measures imposed by it is considered a crime of disobedience. This crime is punishable by a penalty of 3 to 15 days' imprisonment, always replaced by a corresponding fine. It is understood that if this is not paid voluntarily within 10 days, the judge will order the prison sentence to be served for the time corresponding to the ratio of 1 day of actual imprisonment for every 2 days of fine.

■ Economic activity offences and penalties:

There are also innovations in this area. In the previous legislation, failure to comply with the measures was considered an offence punishable by fines ranging from 1 to 5 minimum wages. The collection of fines fell under the jurisdiction of the judicial court of the area in which the offence was committed. The decree that is now in force creates specific offences in the area of economic activity and determines that they are punishable in the following terms:

- Fines, to be determined on the basis of the specific legislation;
- Temporary suspension of economic activity, for a period of 1 to 3 months, depending on the seriousness of the offence; and
- Cancellation of the licence or permit.

In this case, in contrast with the crime of disobedience, the body with power to collect fines is the National Economic Activity Inspectorate (Inspeção Nacional de Actividade Económicas - INAE). The process will only be dealt with in the Judicial Court of the area where the offence was committed in the case of a repeat offence.

Last but not least, the new decree is only in force for 21 days and the counting of these days started at zero on 15 January 2021.