

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.

25 SEPTEMBER 2020

CORONAVIRUS: STATE OF PUBLIC CALAMITY AND RED ALERT

On 4 September 2020, the President of the Republic announced a state of public calamity and activated a red alert, to take effect from midnight on 7 September. No end date was set and it will remain in place as long as the risk of the Covid-19 pandemic persists.

I. BACKGROUND:

In April of this year, the country made the first declaration of a state of emergency. This was in force throughout the country and it was subsequently extended three times, which is the limit constitutional law determines for this purpose.

As the reason for that declaration continued to exist, a second state of emergency was declared on 5 August 2020, and no extension was issued in the meantime. On 4 September 2020, the President of the Republic announced a state of public calamity and activated a red alert, to take effect from midnight on 7 September. No end date was set and it will remain in place as long as the risk of the Covid-19 pandemic persists.

There are three alert phases, with red being the most serious. A red alert is activated when the phenomenon is irreversible and it is expected that there will be human, environmental and material damage that could turn into a disaster of great magnitude.

It should also be noted that, to confirm this fact, the Council of Ministers approved Decree 79/2020 of 4 September.

II. Changes to the rules:

The state of emergency was decreed by a presidential decree later ratified by the Assembly of the Republic and regulated by the Council of Ministers. In contrast, the state of calamity was announced by the President of the Republic and decreed by the Council of Ministers by a Decree, in line with the provisions of articles 33 and 34 of Law 10/2020 of 24 August – the Disaster Management and Risk Reduction Law – and it introduces significant changes.

■ The use of masks and/or visors:

The first of these changes relates to the use of masks and/or visors. Here, there has been a relaxation of their use for people engaging in physical activity. This measure is in line with the recommendation of the World Health Organization. It is based on the understanding that, besides making breathing more uncomfortable, sweat can wet the mask, making it heavier and even more difficult for it to capture air. This promotes the growth of viruses and bacteria and it is the reason for the recommendation to keep the necessary distance¹. The use of masks and/or visors is also not required for people who have medical contraindications, as long as this is properly proved.

■ Official documents and visas:

Article 11 of Decree 79/2020 adds the passport to the range of official documents that are already allowed to be processed. In other words, under the last state of emergency, it was not possible to obtain passports, but under the state of calamity, it is already perfectly possible.

As far as visas are concerned, the restrictions on issuing them remain in place, while the visa waiver agreements between the Mozambican State and other States have been reactivated on a reciprocal basis.

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The suspension of the counting of the length of stay of foreign technicians providing services in the State's structural projects applies only to non-resident foreigners, in order to avoid the fixing of residence for tax purposes. This contrasts with the rules under the last state of emergency, where the suspension also covered resident foreigners. As for functioning border crossing points, the Matola port crossing point in Maputo Province is also now open, under the terms of article 13(1)(c) of this Decree.

■ The resumption of in-person classes:

One of the most discussed topics during the almost 6 months of living with this pandemic is the question of whether or people should attend classes in person. Opinions still differ greatly on this. In fact, in an attempt to get the academic year back on track, the State has been relaxing the measures that dictated the closure of classes. As a result, under this new legislation, the ministers responsible for the areas of education and pre-school education have to decide whether or not to authorise the resumption of classes in the subsystems of pre-school, primary and first grade general secondary education. In making this decision, they must always take into account the evolution of the epidemic situation in the country and the recommendations of the health authorities. The opening of educational establishments providing short-term courses is also subject to authorisation, by the Secretary of State in the Province and in the city of Maputo, as the case may be.

■ Worship and religious celebrations:

For religious services and celebrations, the number of participants allowed has been increased to 150, compared to the 50 allowed under the previous rules. However, this number may not exceed 50% of the maximum capacity of each place of worship, in order to allow the necessary distancing. During religious services and celebrations, time must be set aside to provide information on the measures to prevent and combat the Covid-19 pandemic. Furthermore, the appropriate health measures must be checked at all times.

■ Enforcements and legal-employment relationships:

The previous provisions on default notices, situations of default, and enforcement actions arising from any delay in meeting obligations that could not be met due to the application of the measures imposed in the state of emergency are now without effect. In other words, default notices can already be served and the normal system of defaults and enforcement actions has been reactivated.

The prohibition on the termination of employment relationships on the grounds of the absence of workers from the workplace as a result of preventive measures to combat the Covid-19 pandemic has also been lifted.

■ Public transport and public, private and commercial entertainment and similar events:

Public transport is once again subject to normal opening hours. Under the last state of emergency, it was only allowed to operate between 5 am and 11 pm.

¹ <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/>, consultada em 14 de Setembro de 2020.

Special attention is also paid to public and private events, and to commercial entertainment establishments and the like. In fact, significant changes have been made with regard to the maximum number of people permitted to attend private events. The number rises from 30 to 40.

Under the same article (16), the return to training of national teams and teams for international competitions for African or world championships is authorised. The beaches are now open again, but team sports, musical performances, and the sale and consumption of alcoholic beverages are still prohibited.

■ **Renting properties and penalties for breaches:**

The state of calamity has re-established normality in respect of renting properties, and the eviction of tenants under residential leases is no longer prohibited. As regards penalties, under the last state of emergency, non-compliance with the rules imposed amounted to the crime of disobedience, which is punished with a penalty of 3 to 25 days of imprisonment always replaced by a corresponding fine, except, in cases of non-compliance within 10 (ten) days. Now, under the rules of the state of calamity, non-compliance is no longer treated as a crime but as a transgression, which is punished with fines ranging from 1 to 5 minimum wages.

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