

MORAIS LEITÃO
LEGAL CIRCLE

MOZAMBIQUE'S NEW ELECTRICITY CONCESSION REGULATION

What investors and lenders need to know

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DISCLAIMER

This briefing note concerns Decree No. 31/2026, of 7 July (Regulation), approving the Regulation for the Attribution, Execution and Extinction of Concessions for the Production, Transmission, Distribution, Commercialisation, Storage, Import and Export of Electricity, published in the *Boletim da República* and currently in force. This note is provided for informational purposes only and does not constitute legal advice. Clients are advised to seek specific legal counsel before making decisions based on this briefing.



INTRODUCTION

Mozambique is endowed with significant energy resources, particularly hydroelectric potential, positioning the country as a key player in the Southern African power market. Flagship projects such as the Mphanda Nkuwa hydropower project illustrate the Government’s ambition to expand generation capacity, strengthen regional exports and attract large-scale private investment. In this context, Mozambique continues to position itself as an attractive destination for energy investment, supported by ongoing reforms aimed at expanding access to electricity and ensuring the long-term sustainability of the sector.

OVERVIEW OF THE CURRENT LEGISLATIVE FRAMEWORK

Mozambique’s electricity sector is governed by Law No. 12/2022, of 11 July (Electricity Law), which establishes the general organisation of the electricity sector and the legal framework applicable to electricity supply activities, based on a concession regime open to both public and private operators. To operationalise this framework, the Council of Ministers has approved Decree No. 31/2026, of 7 July, which sets out detailed rules for the attribution, execution and extinction of electricity concessions across the entire value chain, including production, transmission, distribution, commercialisation, storage, import and export of electricity.

The Decree also clarifies the institutional set-up for system operation during the transition period. The Decree provides that, until the statute and organisational structure of the National Electricity System Manager (*Gestor do Sistema Eléctrico Nacional*) is approved, its functions will continue to be exercised by Electricidade de Moçambique, E.P.

ATLANTIC OCEAN

INDIAN OCEAN



SCOPE AND EXCLUSIONS

Under the Regulation, the rules set out in this briefing apply to on-grid electricity projects and larger electricity installations subject to the concession regime. The Regulation also establishes the rules governing the planning, financing, construction, ownership, commercialisation, maintenance, operation, termination of the electricity supply concession, and reversion of the concession assets. Mini grids with an installed capacity of up to 10 MW, as well as energy services in off-grid areas, fall outside this regime and are therefore excluded, being governed instead by separate legislation.

CONCESSION GRANT PROCEDURES

The Regulation introduces a detailed, step-by-step procedure for awarding electricity concessions through public tender. Key features include a minimum 60-day period for proposal submission, formal evaluation criteria covering technical and financial capacity, tariff competitiveness, environmental impact, and local content commitments, and a maximum timeline of 180 days from the deadline for submission of proposals to the award of the concession.

The competent authority responsible for granting concessions depends on project size:

- The Council of Ministers is directly responsible for approving projects with installed capacity of 100 MW or above.
- The Minister of Energy is responsible for granting, amending, extending and terminating concessions for projects with installed capacity below 100 MW, save that the Council of Ministers may reserve for itself the power to decide on such sub-100 MW projects where national sovereignty, the public interest or the strategic relevance of the concession so justify.

THESE PROCEDURAL CLARIFICATIONS SHOULD PROVIDE GREATER PREDICTABILITY FOR PROJECT DEVELOPERS AND INVESTORS PARTICIPATING IN COMPETITIVE TENDER PROCESSES.

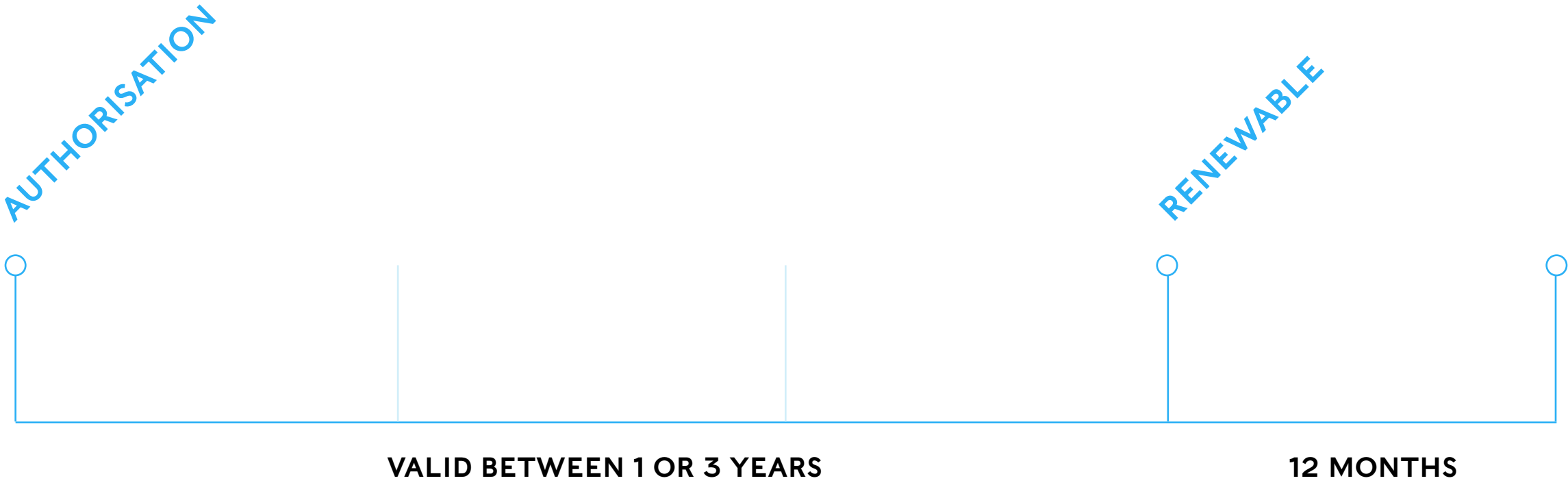
UNSOLICITED PROPOSALS AND TECHNICAL STUDIES

The Regulation creates a formal framework for unsolicited proposals. Developers wishing to conduct technical studies and investigations for an energy project must obtain prior authorisation from the Minister of Energy. Authorisation is valid for a period of between one and three years depending on the type of resource and project size, renewable for 12-month maximum period upon justified request, and is granted on a non-exclusive basis.



ONCE STUDIES ARE COMPLETED, THE COMPETENT AUTHORITY MAY PROCEED WITH THE TENDER PROCESS FOR THE AWARD OF THE CONCESSION. IMPORTANTLY, UNDER THE REGULATION, IF THE STUDY IS USED EXCLUSIVELY AND IN ITS ENTIRETY AS THE BASIS FOR THE RELEVANT TENDER, THE STUDY AUTHOR BENEFITS FROM THE PREFERENCE MARGIN PROVIDED FOR UNDER APPLICABLE LEGISLATION IN THE ASSESSMENT OF ITS TECHNICAL AND FINANCIAL PROPOSALS, EVEN IF ANOTHER ENTITY IS ULTIMATELY SELECTED AS PREFERRED BIDDER. HOWEVER, IF THE STUDY AUTHOR CHOOSES NOT TO PARTICIPATE IN THE TENDER, THE STATE ACQUIRES THE RIGHT TO USE THE STUDY DATA WITHOUT COMPENSATION.

This framework provides useful clarity for early-stage developers. However, the non-exclusive nature of the study authorisation means that competitors may conduct parallel studies on the same project. Moreover, the preference margin only applies where the study is used exclusively and in its entirety as the tender’s basis, and the Regulation does not fix its percentage, leaving this to other applicable legislation. This uncertain benefit may not be sufficient to offset the cost and risk of early-stage investment. Developers should therefore weigh the strategic value of conducting technical studies against the risk that the resulting concession may ultimately be awarded to a third party.



CONCESSION DURATION

Under the Regulation, maximum initial concession durations are set as follows:

MAXIMUM DURATION OF 30 YEARS	
HYDROELECTRIC/PUBLIC DOMAIN RESOURCES	
MAXIMUM DURATION OF 25 YEARS	
OTHER PRODUCTION CONCESSIONS	
MAXIMUM DURATION OF 25 YEARS	
TRANSMISSION AND DISTRIBUTION	
MAXIMUM DURATION OF 10 YEARS	
COMMERCIALISATION	

Where a concession covers multiple activities, the longest applicable duration applies. These specific caps were not set out in the Electricity Law itself, which instead referred to the legislation governing Public-Private Partnerships and the concession contract for the determination of concession duration. The Regulation provides express maximum durations for specific types of concessions, which are directly relevant for financial modelling and debt tenor structuring and should be considered in articulation with other applicable legal provisions. Notably, the Regulation also clarifies that these duration periods begin to count from the date on which the competent court issues the prior fiscal oversight clearance (*visto de fiscalização prévia*), in accordance with the terms of the relevant concession contract, which is deemed to be the “effective date” for this purpose.

CONCESSION CONTRACT REQUIREMENTS

The Regulation significantly expands the mandatory content of concession contracts. Notable additions include provisions on risk allocation and mitigation for *force majeure* and extraordinary events, mechanisms for addressing material changes in circumstances, grounds for contractual revision and termination with associated compensation methods, and provisions for the assignment of the contractual position to financiers.

For banking and finance clients, the express requirement for concession contracts to address the assignment of the contractual position to project financiers (*Cessão da Posição Contratual aos Financiadores*) is a significant positive development. This creates a clear contractual framework for “step-in” and “direct agreement” structures commonly used in project finance.

PERFORMANCE GUARANTEES

The Regulation introduces a graduated performance guarantee system:

BID SUBMISSION

0.1%

of projected investment

COMMENCEMENT OF OPERATION

5%

of investment (adjustable)

CONTRACT SIGNING

10%

of investment

HANDOVER

5%

of investment
(valid up to 12 months)

FOR LARGE GOVERNMENT-AUTHORISED INVESTMENTS EXCEEDING MZN 12.5 BILLION (AS OF 1 JANUARY 2009), THE CONTRACT SIGNING AND OPERATIONAL GUARANTEES ARE CAPPED AT 2.5%. GUARANTEES MAY TAKE THE FORM OF BANK GUARANTEES, AVALS, PARENT COMPANY GUARANTEES, OR OTHER RELIABLE FIDUCIARY INSTRUMENTS.

These requirements will need to be factored into project finance structures and security packages from the outset.



LENDER STEP-IN RIGHTS

One of the most significant developments for the banking and finance sector is the express recognition of lender step-in rights. Under the Regulation, the general requirement for prior approval of concession transfers does not apply where the transfer results from a financing agreement approved by the Minister of Energy, under which the financial institution has the right to “step-in” and operate the concession enterprise.

This provides important regulatory certainty for project lenders. However, clients should note that the exemption is conditional upon the financing contract having been approved by the Minister of Energy, and the scope of this approval process is not yet detailed.



CONCESSION TERMINATION, REVOCATION, AND CREDITOR PROTECTIONS

The Regulation introduces important procedural safeguards for concession revocation. In the event of intended revocation, the concessionaire must be given a specified period to remedy the relevant breaches, with the option of submitting a remediation plan within 15 days. Additionally, where the concessionaire intends to revoke the concession, it is required to notify the concessionaire company's known principal creditors, allowing them to propose solutions to avert revocation, subject to the Granting Entity's consent. This represents a strengthening of the position under the Electricity Law, which merely provided that the concession contract "may provide for" such creditor notification, treating it as a contractual option rather than a mandatory requirement.

This creditor notification mechanism is of direct relevance to project lenders, as it provides an additional layer of protection before a concession is revoked.

**IF A CONCESSION IS TERMINATED, THE STATE
MAY ASSUME CONTROL OR APPOINT A THIRD
PARTY TO OPERATE THE CONCESSION FOR UP
TO 24 MONTHS PENDING A NEW AWARD.**

REVERSAL AND HANDOVER OF CONCESSION ASSETS

Under the Regulation, the process for reversal of concession assets to the State is formalised. A formal Evaluation Commission – composed of an independent valuator, auditor, and electrotechnical engineer – is appointed to inspect all installations and infrastructure.

Under the Regulation, the calculation and payment of indemnification for reverted installations and assets is determined in accordance with the Electricity Law, with the value determined by an independent expert. Investors and lenders should confirm the precise indemnification methodology applicable to their project against the Regulation, the Electricity Law and the terms of the relevant concession contract, and monitor any complementary regulations that may further specify this methodology.

DECOMMISSIONING FUND

The Regulation creates a detailed decommissioning fund regime. Concessionaires must establish a dedicated bank account in Mozambique by the start of commercial operation. The fund is financed through annual deposits, accrued interest, and residual asset values. Any shortfall in the fund at the time of decommissioning is the exclusive responsibility of the concessionaire.

THE ENERGY REGULATORY AUTHORITY (ARENE) HAS SUPERVISORY AUTHORITY OVER THE FUND, INCLUDING THE ABILITY TO AUTHORISE OR DIRECT MOVEMENTS WITHOUT THE CONCESSIONAIRE'S PRIOR CONSENT IN CERTAIN CIRCUMSTANCES. REMAINING BALANCES AFTER DECOMMISSIONING ARE TO BE TRANSFERRED TO A DESIGNATED ELECTRIFICATION ACCOUNT.

Financiers should take note that ARENE's control over the decommissioning fund account may interact with lender security arrangements over project accounts.



SURPLUS ENERGY SALES AND AGGREGATORS

The Regulation regulates the sale of surplus energy by self-producers connected to the national grid. Surplus sales are capped at one-third of the installation’s potential annual production at maximum installed power. If this threshold is exceeded, a production and commercialisation concession is required.

A NEW CONCEPT – THE “AGGREGATOR” – IS INTRODUCED AS A LICENSED INTERMEDIARY THAT MAY PURCHASE AND SELL SURPLUS ENERGY ON BEHALF OF SELF-CONSUMERS. NET BILLING THROUGH BIDIRECTIONAL METERING IS ALSO CONTEMPLATED.

COMMERCIALISATION

Under the Regulation, the commercialisation of electricity is subject to specific concession requirements. Commercialisation concessionaires must obtain ARENE approval for purchase prices and consumer tariffs and submit proposed standard contracts within 30 days of the Regulation’s entry into force.

Consumer switching rules are introduced under the Regulation. Consumers with contracted power above 200 kVA may only switch suppliers in accordance with ministerial norms, and switching incurs transaction costs. This is a new provision not provided for in the Electricity Law.



1–11 kV

5M



400 kV

50M

SERVITUDES AND PROTECTION ZONES

The Regulation specifies minimum servitude widths based on voltage levels, ranging from five meters for lines of 1–11 kV to 50 meters for lines above 400 kV. The approval of electricity supply projects automatically creates partial protection zones and the corresponding administrative servitudes.

FREE COMPETITION

The Regulation expressly prohibits concessionaires from impeding or attempting to impede other concessionaires or potential competitors from entering the electricity supply market in Mozambique or engaging in any prohibited monopolistic activity. This introduces a competition principle that was not explicitly articulated in the Electricity Law.



FINES AND PENALTIES

The Regulation contemplates a detailed fines regime, differentiated by installed capacity, with fine thresholds subject to periodic update in accordance with the Consumer Price Index. As of the date of this briefing, the annex setting out the specific fines applicable to each type of infringement has not yet been published. The values contemplated in the draft regulation ranged from MZN 2,000,000 to MZN 4,000,000 depending on the nature and severity of the infringement; however, there can be no assurance that these figures will be maintained in the final version. Should the annex, once published, introduce materially different fine thresholds, we will issue an updated Client Briefing to reflect those changes.

FINES RANGING FROM

MZN
2,000,000



MZN
4,000,000

INSURANCE

Under the Regulation, concessionaires are required to effect and maintain all legally required insurance covering installations, equipment, workers, and third parties, updated on an annual basis.

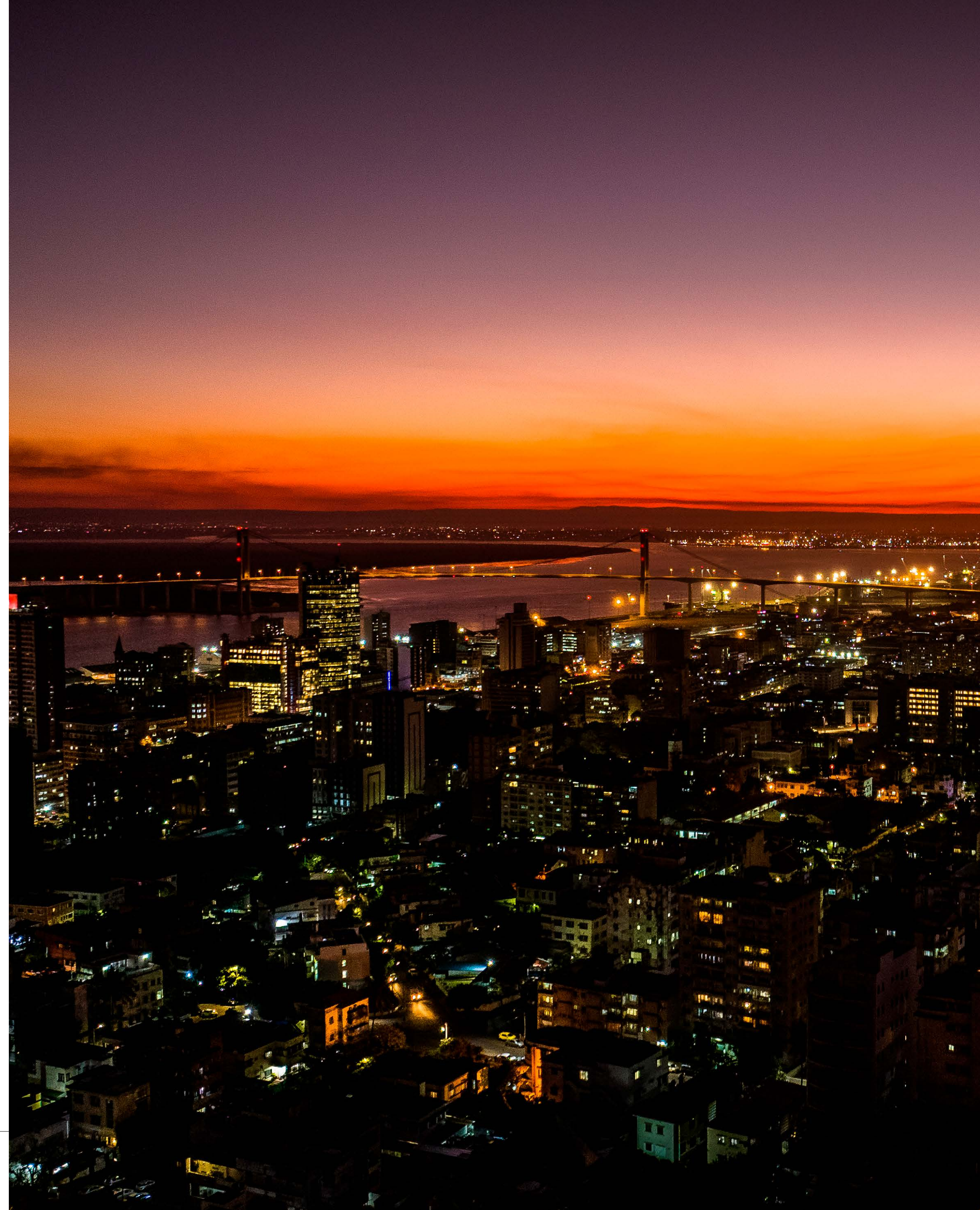
MINI-GRID TRANSITION

Mini-grid concessions granted under Decree no. 93/21, of 10 December, are converted to concessions under the Regulation upon interconnection to the National Grid or when installed capacity exceeds 10 MW. The terms of the converted concession are to mirror the original concession, with adjustments necessary for interconnection or capacity increase.

PRACTICAL IMPLICATIONS FOR BANKING AND FINANCE

The Regulation represents a significant step forward in the regulatory framework for electricity concessions in Mozambique. Key implications for banking and finance clients include the following:

- The express recognition of lender step-in rights and the requirement for concession contracts to address the assignment of contractual positions to Lenders will facilitate conventional project finance structures. The creditor notification mechanism in revocation proceedings provides an important safeguard for lenders. However, the scope of ministerial approval for financing contracts remains unclear and should be monitored.
- The graduated performance guarantee regime will require careful structuring, particularly for large-scale projects where the total guaranteed exposure may be substantial. The maximum concession duration caps are directly relevant for financial modelling and debt tenor considerations.
- ARENE's authority over decommissioning fund accounts may require coordination with project security arrangements. The indemnification methodology for reverted installations and assets, determined by reference to the Electricity Law and by an independent expert, should be confirmed against the terms of the relevant concession contract for financial modelling purposes.



KEY TAKEAWAYS

The Regulation operationalises the Electricity Law by introducing detailed rules for the award, execution and termination of electricity concessions across the entire value chain. Key highlights include:

- A structured public tender process with defined timelines and evaluation criteria.
- A formal framework for unsolicited proposals, with a preference margin in bid evaluation for study authors whose studies are used as the basis for the relevant tender.
- Maximum concession durations ranging from 10 to 30 years depending on the type of activity.
- Express recognition of lender step-in rights and contractual assignment to financiers.
- A graduated performance guarantee regime.
- A creditor notification mechanism in revocation proceedings.
- A mandatory decommissioning fund under ARENE supervision.

KEY CONTACTS

For further information or to discuss how these developments may affect your projects or investments in Mozambique, please contact our team.



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