



Financial Innovation For Impact

# THE LEGAL AND FISCAL GUIDE TO REAL ESTATE IN SENEGAL

**March 2022**

Overview of the legal and fiscal regime of the real estate sector in Senegal.

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# I. TERMS AND ABBREVIATIONS

**CGI :** General Tax Code

**COCC:** Code of Civil and Commercial Obligations

**Property tax:** Tax due by land title holders (owners)

**Usufructuary:** An individual who has the right to use property and receive the income from it

**Rental value:** The price that the owner could get for his buildings when he leases them.

**Market value:** Estimated value of a property at the time it is put up for sale

**Superficiary:** One who, by agreement, has built on the land of another. Owner of the buildings or crops established on another's land

**Insufficiently built-up land:** A piece of land is insufficiently built-up when the value of the constructions made on it is lower than the market value of the land.

**State-owned property:** Property registered in the name of the State

# II. LAND TENURE

## A. LAND TENURE SYSTEMS

Land ownership is organized in Senegal by the decree of July 26, 1932, which definitively established the system of land registration and land books.

The right of ownership is governed by two regimes: the regime of registration and that of the national domain.

### 1. The registration system

All land located in urban and rural areas, which has been registered in the name of individuals or legal entities, is under the registration system.

Registration guarantees a definitive private property right on delimited parcels of land. (Article 15 Constitution) It is authorized, regardless of the state or status of the owners or holders.

#### a. Obligation to register

In principle, the registration of real estate is not mandatory. It is exceptionally mandatory in the following two cases:

- In the case of alienation or concession of state lands ;
- In the case where an immovable, held until then in the forms admitted by the native customs, must be for the first time, the object of a written contract, drawn up in conformity with the principles of the French law.

#### b. The regime of the national domain

All lands not classified as public domain constitute by right the national domain. Land in the national domain is held by the State and can only be registered in its name.

The lands of the national domain are classified into 4 categories (Article 4 Law No 64-46 of June 17, 1964 on the national domain)

- **Urban areas** : They are constituted by the lands of the national domain located on the territory of the communes and the urban planning groups.

- **Classified zones** : They are made up of forestry zones or protection zones that have been classified under the conditions provided for by the specific regulations that apply to them.

- **Terroir areas** : This is all the land that is regularly exploited for rural habitat, cultivation or breeding.

- **Frontier areas** : This is all the land that is not part of the above-mentioned areas.

## **B. Property titles**

The title deed is the notarized deed that proves that a third party owns a property.

### **1. Le titre foncier**

An individual land title is one that gives full ownership of a property.

The transaction and the transfer of the land title is obligatory before the notary and is subject to taxes and transfer duties.

In Senegal, any individual or legal entity wishing to purchase a piece of land or to proceed with the division of a land title may apply to the Registrar of Property and Land Rights.

This competent authority will initiate a procedure that will result in the transfer of the real estate or its division in the name of the applicant. The accompaniment of a notary is mandatory for the procedure to be successful.

### **2. The long lease**

It is a very long lease (between 19 and 99 years) concluded with a view to making an investment. It is in this sense that the real right of use conferred by the long lease is coupled with the obligation to develop the land within two years.

The emphyteutic lease is a provisional title and is different from an ordinary lease in that it can be registered in the land registry like a title deed, and can be mortgaged.



## C. Property taxes

The General Tax Code provides for the following property taxes:

### 1. Property tax on built-up areas :

It is collected for the benefit of local authorities. It is paid on the basis of the annual rental value of these properties on January 1 of the tax year.

The property tax on built-up properties is due by the owner or the superficiary on January 1 of the year of taxation.

In addition to the owner or superficiary, this tax may be payable by

- ◆ The usufructuary: In case of usufruct.
- ◆ The lessee or emphyteutic lessee: In the case of an emphyteutic lease.
- ◆ The beneficiary or the concessionaire: In the case of an authorization to occupy the public domain or a concession.
- ◆ The occupant : In the case of occupation of land in the private domain of the State or the national domain, whatever the nature and qualification of the occupation title



- ◆ The lessee : In case of leasing. The same applies to property acquired by way of Islamic financing where the contract is accompanied by a promise to sell or purchase at term. However, for assets acquired through sukuk subscription, the tax is due by the issuer of the said loan
- ◆ The beneficiary: In the case of a hire-purchase agreement.
- ◆ The lessee: When the owner of a bare piece of land or a building of little value rents the land by a long-term lease, the lessee is required to build a building at his own expense, which must be returned to the lessor without compensation and free of all charges at the end of the lease.

## **2. Property tax on undeveloped properties**

It is due by the owner, the possessor or the simple holder of the land, in whatever capacity, subject to the provisions of article 318 of the CGI.

However, the state-owned lands which are the subject of a development delegation will not be assessed to the non-built-up land tax until the expiry of the period imposed for their development.

In case of usufruct or long lease, the tax is due by the usufructuary or the emphyteutic tenant.

## **3. Surtax on undeveloped or underdeveloped land**

Independently of the above-mentioned land taxes, a surtax on undeveloped or insufficiently developed land is established in the communes of the Dakar region and in the regional capital communes, notwithstanding, where applicable, the imposition of the land tax on developed properties.

The surtax established in the name of the person liable for the real estate tax is the subject of a single assessment for all the unbuilt or insufficiently built properties for which he is liable for the said tax in each locality, both in his personal name and in the name of his unemancipated children, and for the share of which he is the owner in any undivided ownership or participation in any capacity whatsoever

#### 4. Collection of property taxes

Undivided owners and co-owners of an immovable are jointly and severally liable for the payment of property contributions or surcharge due with the maintenance of the right of recourse against the co-owners, of the one who has overpaid.

The co-heirs and legatees shall be jointly and severally liable for the payment of the real estate taxes or surtax payable in respect of the real estate which devolves to them as a result of death unless they prove by legal means that they have waived their right to the inheritance or legacy.





## Tableau de synthese des taxes foncieres

Taxes	Taxable properties	Rates	Exemptions
<b>Property tax on built properties</b>	<p>Due to</p> <ul style="list-style-type: none"> <li>- <b>Built-up properties</b> : Houses, factories, plants and, in general, buildings constructed of masonry, iron and wood and permanently attached to the basement;</li> <li>- Uncultivated land used for commercial or industrial purposes, such as building sites, merchandise depots and other similar locations, whether occupied free of charge or in return for payment;</li> <li>- Commercial or industrial installations assimilated to constructions;</li> <li>- Vessels or other maritime or fluvial craft, used at a fixed point for 6 months or more and fitted out for habitation, commerce, industry or the provision of services, even if they are only held by moorings</li> </ul>	<p>The rate of the CFPB is <b>5% applied on the rental value.</b></p> <p>The law provides for rebates and moderations for the vacancy of a building or the non-operation of a commercial or industrial establishment</p>	<p>The following are exempt from the CFPB</p> <ul style="list-style-type: none"> <li>- Real estate, buildings or constructions belonging to the State, local authorities and public establishments, when they are assigned to a public service or of general utility and are unproductive of income;</li> <li>- Facilities in sea, river or air ports and on inland waterways that are the subject of public tooling concessions granted by the State to chambers of commerce, agriculture or industry or to local authorities;</li> <li>- Works established for the distribution of drinking water or electrical energy and owned by the State or local authorities;</li> <li>- Buildings used for the public exercise of worship as well as buildings constituted as waqf and managed by the authority in charge of the administration and supervision of waqf;</li> <li>- Buildings for school use that do not generate income from real estate;</li> <li>- Buildings used by the owner for medical or social assistance;</li> </ul>

	<ul style="list-style-type: none"> <li>- Installations intended to shelter persons or goods, to store products as well as masonry works having the character of real constructions such as, in particular, factory chimneys, atmospheric coolers, dry docks, works serving as support for the material means of exploitation;</li> <li>- The grounds of buildings of any kind and the grounds forming an indispensable and immediate dependence of these constructions;</li> <li>- Land, whether cultivated or not, used for commercial or industrial advertising, by billboards, billboards or special portable signs, established around any cluster of houses or buildings;</li> <li>- Structures and communication routes.</li> </ul>		<ul style="list-style-type: none"> <li>- Buildings used for agricultural operations to house animals or to store crops;</li> <li>- The straw huts;</li> <li>- The building occupied by the owner himself as a principal residence for the part of the rental value which does not exceed 1.500.000 FCFA. This exemption applies to a single building;</li> <li>- The property occupied by the pensioner himself as his principal residence on January 1 of the year of taxation when the amount of his total net income for the preceding year does not exceed 1,800,000 FCFA for the calculation of income tax. This exemption is valid for one property only;</li> <li>- Premises listed on the assets side of the balance sheet of companies liable for the local economic contribution.</li> </ul>
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Taxes	Taxable properties	Rates	Exemptions
<b>Property tax on non-built properties</b>	<p>Due for</p> <ul style="list-style-type: none"> <li>- Registered and unregistered land;</li> <li>- Land on which buildings not attached to the ground are located within the perimeter of municipalities, urban planning groups, subdivided centers or centers designated by order of the Minister of Finance;</li> <li>- Land occupied by quarries, mines and peat bogs, ponds, salt works and salt marshes;</li> <li>- Land under construction is also taxable if the work is not completed in the third year following the year in which the work began.</li> </ul>	<p>The rate of the NBFC is set at <b>5% of the market value of the taxable property.</b></p>	<p>The following are exempt from the contribution:</p> <ul style="list-style-type: none"> <li>- Land belonging to the State and to municipalities which, although not assigned to a public service, are not income-producing, nurseries and gardens created by the administration or by companies of collective agricultural interest, with the aim of selecting and improving plants;</li> <li>- Bare land used by merchants or industrialists for the normal and rational operation of their trade or industry, in particular bare land attached to lots already partially built upon and used for trade, industry, mining or quarrying, even if such land is not used on a permanent basis;</li> <li>- Land forming immediate dependencies of buildings built in solid form and intended for habitation;</li> <li>- Fields used by sports or physical education societies and associations approved by the Minister of Youth and Sports;</li> <li>- Land cultivated or actually used on January 1 by farmers for the sale and handling of crops and hay or for the raising and maintenance of livestock;</li> </ul>



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|--|--|--|--|
|  |  |  | <ul style="list-style-type: none"><li>- Land used for public worship as well as land constituted as waqf and managed by the authority in charge of the administration and supervision of waqf;</li><li>- Land used by the owner for school purposes;</li><li>- Land constituting medical or social assistance facilities when used by the owner himself.</li></ul> |
|--|--|--|--|

Taxes	Taxable properties	Rates	Exemptions
<b>Surtax on undeveloped or underdeveloped land</b>	<p>Concerns</p> <ul style="list-style-type: none"> <li>- Unbuilt land;</li> <li>- Land where the market value of the buildings is lower than the value of the land.</li> </ul>	<p>The rate is determined according to the locality<sup>1</sup> and the total market value of the undeveloped or insufficiently developed land, taxable or exempt.</p> <p>The rates are <b>1%, 2%, 3%</b> and are applied by tranche on the market value of the land.</p>	<p>The following are exempt from the surcharge</p> <ul style="list-style-type: none"> <li>- Land subject to a general absolute prohibition on construction resulting, by application of the regulatory texts, from their topographical situation, and those subject to a temporary or conditional prohibition resulting from a particular specification by the local authorities not caused by the owner;</li> <li>- The land of which the owner is temporarily deprived of the enjoyment, as a result of a situation of fact beyond his control.</li> </ul> <p>This exemption also applies to land that has been set up as a waqf and is managed by the authority responsible for administering and supervising the waqf.</p> <p>The goods exempted from the property tax on undeveloped properties by virtue of the provisions of article 299 of the CGI.</p>

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<sup>1</sup> See article 307 of the General Tax Code.



### **III. THE SALE OF THE BUILDINGS**

The acquisition of real estate (land or buildings) in Senegal is a very common transaction. Indeed, Senegal being in full development attracts a great number of people, in particular investors, tourists, students or even families who wish to settle there in the short or long term.

The most common means of acquiring real estate is the sale. This sale is subject to substantive and formal conditions which, if not respected, could have consequences on the validity of this contract, up to its nullity.

#### **A. THE CONTRACT OF SALE**

The contract of sale in real estate matters is different from that in movable matters. Indeed, while some contracts do not require written proof or witnesses, the sales contract must be in writing.

Some important checks to make before buying a building :



- Verify the existence of the building and the conformity with the description. It is important to verify the existence of the property as well as the conformity to the description of the property in order to be sure that it is indeed the property you are about to buy.
- Make sure that the person selling you the building actually owns it

## **1. The conditions of acquisition of a building in Senegal**

The acquisition of a building is subject to two major conditions: the registration of the building and the presence of the Notary.

### **a. Registration in the land register**

Registration of the property is required prior to any transfer of ownership. In fact, article 380 of the COCC provides as follows: "On pain of absolute nullity of the contract, the registration of any immovable is mandatory for the validity of agreements constituting or transferring rights protected by the land registration system.

### **b. The presence of a notary**

The notary plays a more than essential role in the acquisition of a property insofar as the Code of Civil and Commercial Obligations provides for the presence of the notary as a condition of validity of the contract of acquisition of a property.

Indeed, article 383 of the said Code provides that: "The contract must, under penalty of absolute nullity, be concluded before a notary with territorial jurisdiction, unless otherwise provided by law or regulation. "

It should be noted that the role of the notary goes beyond the transfer, he also plays the role of adviser.

Indeed, in real estate transactions, he analyzes before the acquisition, the situation of the real estate and advises you usefully on the risks which could have if you conclude the transaction. He checks in this sense if the property to be acquired is not subject to a mortgage at the time of the sale. Any owner of a property has the possibility of mortgaging this property as a guarantee for a transaction or an obligation.

The notary also verifies the identity of the seller and the buyer of the property.

In addition to this upstream work, the notary proceeds with the drafting of the property transfer deeds. In the context of the purchase of a building, it is highly recommended and even very common to resort to a pre-sale act called a promise to sell.

The promise of sale is the act by which the parties undertake, one to transfer, the other to acquire a right on the property. It obliges both parties to complete the contract by registering the transfer of the right at the Land Registry.

When it is made, this promise of sale or pre-contract obliges both parties to complete the contract by registering the transfer of the right at the Land Registry. This promise is therefore binding on both parties and its improper breach may give rise to effects such as damages.

## **B. TRANSFER OF RIGHTS AND OBLIGATIONS**

The sale or purchase of an immovable transfers to the new purchaser an interest in the immovable called a real right, in accordance with the provisions of article 381 of the COCC.

The real right is a direct prerogative of a person on a movable or immovable property. This right gives the holder the right to use, enjoy and dispose of the property.

Unless otherwise agreed between the parties, the transfer of ownership takes place as soon as the buyer takes delivery of the goods sold.

In real estate matters, the real right is materialized by the mention in the land title of the name of the new owner/purchaser of the property.



## **IV. OTHER METHODS OF TRANSFERRING OWNERSHIP**

The property rights of a building can be transmitted through exchange or donation. The change in the ownership of an immovable property is called a "transfer", which is subject to registration fees.

### **A. THE EXCHANGE**

It is a contract by which the parties undertake respectively to deliver one thing for another. It produces its translative effect by the reciprocal delivery of the goods object of the exchange.

The transfer of ownership of the real property that is the subject of an exchange occurs by the recording of each transfer on the respective land titles .



## **B. DONATIONS**

The Senegalese Family Code provides that one can take possession of a property free of charge by donation or by will.

A donation is a contract by which the donor transfers the ownership of a property to the donee who accepts it.

A will is a unilateral act by which the testator transfers, free of charge, all or part of his property for the time when he will no longer exist.

## **V. THE LEASES**

A lease is a contract by which the owner of property gives another person the right to use or enjoy the property in return for rent.

In the field of real estate, the lease can concern a bare piece of land, a built building, a house, an apartment, etc. A distinction is made between a lease for residential use and a lease for professional use.

### **1. The lease for residential use**

The lease for residential use, as its name indicates, is concluded for residential purposes.

It meets certain conditions and is subject to a different legal regime from that of a lease for professional use or commercial lease.

When concluded for a fixed term, the lease for residential use may only be concluded for a maximum of three (3) years and may be renewed by tacit agreement but only for three-year periods. The lease for residential use may also be concluded for an indefinite period.

#### **a. The rent**

The amount of the rent in Senegal varies according to the zone of dwelling, the type of dwelling and even often, according to the periods.

Senegal has been facing an increase in rents due to the growing demand. This inflation has considerably affected household incomes and has wiped out efforts to increase the purchasing power of Senegalese people.

This situation has led the government to take measures and to lower the prices of rents by certain percentages through the Law N°2014-03 of January 22, 2014 on the reduction of rents that were not calculated according to the corrected surface.

This law lowered the prices of rents as follows:

- **Rents below 150,000 CFA francs: 29%;**
- **Rents between 150,000 CFA francs and 500,000 CFA francs: 14% decrease;**
- **Rents above 500,000 CFA francs: 4% decrease.**

## **b. The deposit**

Like any real estate transaction, the rental of a building (house, apartment, etc.) requires a guarantee, commonly called a deposit.

According to the decree **No 77-527 of June 23, 1977** relating to the amount of the rent for residential use, this guarantee cannot exceed a sum corresponding to two months of rent.

The deposit will be returned to the tenant only after the premises have been returned to the state they were in at the time of rental, and after the keys have been handed over. The landlord must also ensure that the tenant cancels all current contracts related to the lease: water, electricity, telephone and internet contracts, etc. If not, this will be used to restore the premises.

## **c. Subletting and Assignment**

The Lessee may only sublet with the express written consent of the Lessor and after having notified the name of the sublessee with an indication of the sublease rate, under penalty of termination of the principal lease on the pursuit of said Lessor. The amount of the sublease price may not exceed the amount of rent owed by the tenant to the principal lessor.

The lessee may only assign the lease with the written consent of the lessor and after notifying the lessor of the name of the assignee.

## **d. Termination of the lease**

If, at the end or during the lease, either party, for any reason, wishes to terminate the lease, it shall do so in accordance with the rules.

If the lease is concluded for a fixed term, the tenant who does not wish to benefit from the tacit renewal will have to notify the lessor by an extrajudicial act served 6 months before the expiration of the current three-year period.

The lessor may refuse to renew the lease if he intends to take over the leased premises:

- To live in it himself or to have it lived in by his spouse, his ascendants, his descendants in direct line or those of his spouse;
- To demolish and rebuild them

In this case, he will have to serve a notice, 6 months before the expiration of the current lease.

When the lease is concluded for an indefinite period, the tenant who wishes to terminate the contract must, by extrajudicial act, give notice to the lessor at least two months before the date of termination.

As with the fixed term lease, when the lessor wishes to take over the leased premises for the same reasons as mentioned above, the lessor may give the lessee 6 months' notice of termination.

## **2. The lease for professional use**

When the contract is concluded for the purpose of exercising commercial, industrial, artisanal or any other professional activity.

The regime of the lease for professional use or commercial lease is fixed by the provisions of the OHADA Uniform Act on General Commercial Law.

Commercial leases may be oral or written, and there is no limit on fixed-term leases. In the absence of a written document or a fixed term, the lease is deemed to be concluded for an indefinite period.

The rent is freely fixed between the parties subject to the legal provisions in force.



## **a. The obligations of the parties**

The lease for professional use generates obligations for both the lessor and the lessee.

### **- The obligations of the lessor**

The lessor is required to deliver the accommodation in good condition. For this purpose, an inventory of fixtures must be made in the presence of the tenant. The lessor is responsible to the lessee for any disturbance of enjoyment caused by him or by his assigns or employees.

He is also required to make, during the term of the lease, all repairs other than maintenance, which have become urgent.

The landlord must also give a receipt to the tenant each time the tenant pays the rent.

### **- Tenant's obligations**

The lessee or tenant is firstly obliged to pay the rent, representing the consideration for the enjoyment of the rented apartment or house. He also has the duty to use and enjoy the property as a "good father of the family" , not to use it for purposes other than those for which it is intended.

He is also required to carry out minor repairs, also known as maintenance repairs.

The tenant must proceed to the inventory of fixtures at the end of the rental period, in the presence of the landlord. It is only after this inventory of fixtures that he will be able to return in possession of the totality or not of the guarantee.

## **b. Assignment and sublease**

The transfer of a commercial lease can be total or partial.

When the transfer is total, i.e. the lease is transferred with all the elements allowing the activity in the rented premises, this transfer is imposed on the lessor, his authorization not being required.

Nevertheless, when the assignment concerns the lease alone or with part of the elements allowing the activity in the rented premises, the assignment is subject to the agreement of the lessor.

Any transfer, total or partial, must be notified to the lessor by service of a bailiff or notification by any means allowing to establish the effective reception by the addressee.

The obligations arising from this lease are the same for the tenant and the lessor as those of a residential lease.

The lessee is obliged to expressly inform the lessor, however, that he/she would like to add to the activity provided for in the lease contract related or complementary activities in the same field as that envisaged. The lessor can only object to this for serious reasons.

It may also happen that the tenant changes his activity without having to change the premises. In this case, the lessor must be expressly informed and can only be opposed for serious reasons.



# VI. DUTIES AND TAXES APPLICABLE TO SALES, LEASES AND TRANSFERS

Acts	Plate	Rates	Registration period from the date of the act
<b>Sale<sup>1</sup></b>	Price expressed	5%	
<b>Free transfer</b>		10%	
<b>Transfer of land for residential use<sup>2</sup></b>		3%	1 month
<b>Unlimited term lease</b>		5%	
<b>Fixed term lease</b>	Annual rental value	2%	1 month
<b>Lease of public property / Concession on the public domain</b>	Annual rental value	2%	1 month
<b>Transfer of property on real estate following a dissolution of a company</b>		5%	
<b>Exchange of real estate</b>		3%	
<b>Transfer of leasehold rights</b>	Value - Stipulated compensation		
<b>Real estate capital gains tax</b>	Capital gain = sale price - (acquisition value + improvement, construction or other expenses)	10%  (15% in the case of transfers of state-owned buildings)	At the same time as the registration

# VII. THE CONSTRUCTION OF BUILDINGS

The rules governing the construction sector in Senegal are restrictive. These strict regulations are introduced to ensure a better quality of execution, a durable and reinforced safety in order to avoid any accident that could be detrimental to the activity. Indeed, it is the weakness of the construction of the buildings during certain accidents which justified the development of such rules.

The legal framework consists mainly of the Construction Code.

## A. THE BUILDING PERMIT

As a general rule, construction in Senegal requires a building permit. Permits are required for new construction projects, the construction of walls over two meters high, exterior modifications to buildings, structural adjustments, extensions and works involving a significant change in the internal layout of buildings.

The legal deadline for issuing a permit is 28 days, but failure to meet this deadline is the main challenge for construction companies.

However, it is provided that after this period, the application is considered accepted by the Board and the applicant may commence construction.

## B. TECHNICAL CONTROL

According to the provisions of Articles L24 and L25 of the Construction Code, the technical control on the feasibility, design, execution, maintenance and condition of works and supplies in the field of energy, real estate and civil engineering, can only be carried out by natural or legal persons previously approved by decree for the exercise of this activity.

The technical controller's mission is to contribute to the prevention of the various technical hazards likely to be encountered during the construction of the works as well as during their operation.



The technical controller is a third party independent of the designers and builders. He intervenes at the request of the owner of the work and gives his opinion to the latter, to the insurers and interveners, on the problems of a technical nature. This opinion relates in particular to the problems which concern the solidity of the work and the safety of the people.

## **C. MANDATORY LIABILITY INSURANCE**

According to the provisions of Article L28 of the Construction Code, any natural or legal person whose responsibility may be engaged must be covered by insurance.

At the opening of any construction site, the natural or legal person must be able to justify that it has taken out an insurance policy covering it for the liabilities incurred.

Any contract of insurance entered into under this section shall, notwithstanding any stipulation to the contrary, be deemed to include a clause assuring continued coverage for the duration of the liability incurred by the person subject to the insurance obligation.

## **D. SAFETY AND HEALTH ON THE CONSTRUCTION SITE**

Construction sites that involve building or civil engineering work are subject to health and safety standards.

Among the safety and health obligations provided for in the Act, the most important are the safety and health plan; the notification of the labour and social security inspector; and the minimum requirements on construction sites.

### **1. The safety and health plan**

First, project managers must designate one or more safety and health coordinators. The law requires that a safety and health plan be drawn up before work begins.

The general principles of safety and health must be taken into account in the architectural, technical and organizational choices of the construction (or phases of construction) and in the planning of the duration of this construction.

## **2. Notice to the labor and social security inspector**

Any work site where the duration of the work exceeds 30 days and which employs more than 10 workers must be notified in advance to the labor and social security inspector.

This notification contains the precise address of the construction site, the contact details of the project owner and the safety and health coordinator, the nature of the construction work, the start date and duration of the work, the maximum number of workers on the site, the number of companies expected to work on the site and their identification.

## **3. Minimum requirements for construction sites**

The work sites must ensure, among other things :

- Stability and durability of materials and equipment used;
- Emergency routes and exits;
- Fire detection and control;
- Ventilation system;
- Adequate lighting of spaces and pathways;
- First aid and trained personnel always available;
- Arrangements for evacuation of injured or suddenly ill workers to medical treatment;
- Appropriate locker rooms shall be provided for workers when they are required to wear special work clothes;
- Rest and/or accommodation facilities.

## E. THE RESPONSIBILITY OF CONSTRUCTION COMPANIES

Construction companies are responsible for damages suffered by workers during the execution of the construction.

In fact, in accordance with the provisions of the Labor Code, construction companies are the employers of workers and are responsible for any accidents that the latter suffer on their sites.



# VIII. THE CIVIL PROPERTY COMPANY

The real estate civil company is governed by the provisions of the Senegalese Code of Civil and Commercial Obligations (COCC) on civil companies.

According to the COCC, a non-trading real estate company is a contract by which two or more persons pool their contributions and form a legal entity to exploit them and share the profits or losses resulting from this activity.

It is characterized by the non-requirement of a writing as a condition of its validity. Therefore, the partnership contract is freely proven.

If it is in writing, the act must be registered within one month of its conclusion.

## A. CREATION AND OPERATION OF THE SCI

The social fund of the non-trading company is made up of two types of contributions in property or in use: Contributions in property or in industry.

## B. THE BUILDING MANAGEMENT MANDATE

The management mandate is governed by the provisions of the Code of Civil and Commercial Obligations .

In the sense of the said Code, the mandate is a contract by which a person called the "principal" gives another person called the "agent" the power to do in his place one or more legal acts. It can be free or salaried.

In the case of the management of buildings, the principal is the owner of a building who delegates to his agent the management of his property and thus the power to do the acts necessary for its execution.

### 1. The agent

The agent may be a natural or legal person.

#### a. Remuneration of the agent

According to the provisions of the COCC, the mandate can be free or salaried. In the case of remuneration, it is freely fixed by the parties. However, if the remuneration is excessive, the judge may reduce it to the value

of the services rendered and the importance of the penalty taken by the mandatary,

## **b. The obligations of the agent**

The COCC provides for 3 main obligations of the agent

### **- The obligation to execute the mandate**

The agent is obliged to faithfully and completely execute the mission he/she has assumed.

He is responsible for the total or partial non-performance and late or defective execution of the mandate

### **- Accountability**

The agent must, at the request of the principal, keep him regularly informed of the operations carried out for him.

### **- The obligation to return**

The agent is obliged to return to the principal everything he receives in the course of the execution of the mandate on any grounds whatsoever. The latter is also liable for interest on sums for which he is in arrears.

## **c. The substitution of the agent**

When his mandate authorizes him to do so or when the choice of the principal has not been determined, the agent may be substituted by a third party called "sub-agent" in the execution of the mandate. In this case, the agent is responsible for the care with which he/she chooses the sub-agent and for the instructions he/she gives him/her.

## **2. Obligations of the principal**

In addition to the obligation to remunerate the agent, the principal has the obligation to reimburse, in principal and interest, the expenses and advances made by the agent in the execution of his mandate. This reimbursement must be complete, unless the agent is at fault.

Under the same conditions, the principal must indemnify the agent for any damage suffered in the course of his management.



### **3. Multiple principals or agents**

A management mandate can bind several principals or co-mandators.

The principals are jointly and severally liable for the performance of their obligations to the Agent and to the third party contractor.

The proxy holders are jointly and severally liable if the power of attorney stipulates that they are jointly and severally liable.

### **4. The limits of the management mandate**

Although the mandate gives the power to do the acts necessary for its execution, the mandatary cannot, without a special power, pass acts or act in justice. Indeed, if the management mandate does not expressly mention that the agent has the special power to pass acts or to act in justice on behalf of his principal.

Also, the mandatary cannot personally make the consideration when he is charged with the sale or purchase of the property. In other words, the mandatary cannot be the buyer of the property that his principal has instructed him to sell, nor the seller of the property that his principal has instructed him to buy.

### **5. The end of the management mandate**

The Code of Civil and Commercial Obligations allows both the principal and his agent to terminate the management mandate.

Indeed, the principal may, at any time and at his discretion, revoke the proxy. The latter must, without delay, return his power of attorney upon simple notification of the revocation.

The agent may, under the same conditions, renounce the execution of the mandate. He shall be liable for any damage caused by a renunciation made inopportunistically.

In addition to the will of either party to terminate the mandate, death, interdiction, or bankruptcy of the parties terminates the mandate. However, if the termination of the contract jeopardizes the interests of the principal, the management must be continued by the mandatary, his heirs or his representative, as long as the circumstances so require.



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