

# Legal Framework

## For Tourism Licensing in Mozambique



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## **PREFACE OF THE FIRST EDITION**

The Sofala Provincial Tourism Directorate welcomes the initiative of the publication of the first edition of the *“Legal Framework for Licensing Tourism and Related Enterprises in Mozambique”*. The manual deals with all necessary steps for current as well as potential investors in the tourism sector. The book also deals with travel and tourism agencies, activities for tourists and other essential information for operators in this sector.

This manual is an important contribution to the streamlining of the business environment in the central region of the country and to the promotion of investment in a sector that is recognized as a job-creator and protector of the environment, and as a high-potential area for the sustainable economic growth of the country, thus contributing to poverty reduction.

The participation of the Provincial Tourism Directorate in the preparation of this manual is a clear indication of its intention to respond with concrete actions to the concerns of investors about the steps that are necessary to license and classify their activities, and to provide essential information for all those intending to participate in the development of the tourism sector in the province. This manual represents a significant step for the improvement of the business environment and the promotion of Mozambique as a whole, and especially the central region, as a global quality destination for investors.

We also recognize the role of the economic associations, which seek to work hand in hand with the Government for the development of an increasingly strong economy and in their commitment to encourage adherence to the Mozambican legal framework.

We hope that this manual will be useful for the main target groups, but this should not prevent the submission of comments and suggestions for the improvement of future editions.

We welcome all those who want to invest and work in our beautiful country!

**The Sofala Provincial Tourism Director**

Beira, 15 November 2008.

## INTRODUCTION

This manual is one of a series aimed at helping investors do business in Mozambique. It is based on the idea that informed investors can follow the law, and the conviction that the rule of law is the best guarantor of property and of orderly and sustained development.

This manual is aimed primarily at investors but we hope it is also a useful tool for anyone involved in promoting tourism, and indeed for the public sector entities promoting economic development in Mozambique. However, the manual cannot cover or exhaust all relevant situations and is therefore primarily aimed at those intending to invest in the tourism sector.

As we developed the manual at times we disagreed over what was the “correct” procedure, considering that in some instances matters are handled differently in different parts of the country. Though the sources of law governing most procedures (without prejudice to the municipal regulatory power) are standardised at national level, local interpretation can vary. Along these lines we take the procedures as described in the law and with additional clarifications in conformity with the procedures followed in the Maputo and Sofala Provinces as our baseline and, where we are aware of them, have made note of any differences in the way procedures are handled elsewhere in the country.

A number of additional legal requirements are mentioned in the manual, such as the requirements for incorporation and for obtaining the right to use and enjoy land. These are complex subjects in their own right and each one of them is the object of a specific manual in this series. We have opted not to give detailed treatment to these issues in this manual. However, we recommend the reader to consult the other manuals of this series. They are available to download from the below-indicated ACIS website.

The reader should also take into consideration that in the English version of this manual we have been faced with the choice of using technical terms in English or in Portuguese. We have opted to introduce the technical terms in the two languages and then use the Portuguese term. Though this may at first seem inconvenient to those who are not familiar with Portuguese, in the long run we believe this approach will help readers to become familiar with the basic terminology for tourism in Mozambique. A glossary of the terms used in Portuguese is included.

The remainder of this manual will be structured in seven chapters, as follows:

**Chapter I – “Thematic framework”:** This chapter refers briefly to the background and general principles of the tourism legislation in Mozambique, as well as the classification of tourism activities and territorial classification relevant for tourism.

**Chapter II – “Licensing of tourism and related activities”:** This is the main chapter of the manual in terms of licensing procedures for tourism activities. In this chapter the different phases of the licensing process for tourism activities, the legal procedures and a few practical aspects to be considered and information on forms in use in the competent public institutions are presented.

**Chapter III – “Other legislation relevant to tourism”:** In this chapter attention is drawn to the existence of sectoral legislation that can have impact on tourism activities, as well as

other complementary legislation necessary for the licensing of tourism activities. Thus, we will briefly refer to a selection of legislation on tourism interest zones; legislation on conservation; legislation on the marine environment; legislation on public health and minors, the consumption and trade of alcohol and tobacco, access of minors; legislation on the hygiene of food establishments; legislation on construction; legislation on investments and tax benefits for tourism projects; and legislation on immigration.

**Chapter IV – “Infractions and penalties”:** this chapter deals with acts defined as infractions under the relevant legal framework for tourism activities and the applicable penalties, as well as useful advice on other obligations to be observed.

**Chapter V – “FAQs”:** in this chapter we present some of the more general questions/doubts raised by economic operators as well as the respective answers.

**Chapter VI – “Main legislation consulted”:** this chapter lists, for easy reference, the legislative package consulted for the preparation of this manual.

**Chapter VII – “Annexes”:** in this chapter we present a few application forms and information on forms in use in the competent public institutions.

It is important to note that both the law and public administration are dynamic. Some of the laws and procedures described may be changed. In addition, we may have made mistakes, despite the fact that we have been careful to avoid this. Readers are invited to inform us about any mistakes or omissions found, so that we can correct them in future editions. That being said, we disclaim liability for any mistakes or omissions in this edition. The consultation of this manual does not do away with the need to consult the relevant legislation, to contact the competent authorities and to seek legal counsel.

The copyright for this manual belongs jointly to SPEED, GIZ and ACIS. Any quotations from this manual require due reference to the source. All rights are reserved.

*A large part of the legislation referred to in this manual is available in Portuguese and in English. You can download this legislation and the other manuals of the “Legal Framework” series from the ACIS website, [www.acismoz.com](http://www.acismoz.com).*



## GLOSSARY OF TERMS

Please find below a list of some of the terms the reader will encounter during the process of licensing tourism investments. Defined terms are set forth in bold typeface.

<b>Alvará</b>	Company trading or operating license.
<b>APIT's</b>	Priority Tourism Investment Areas ( <i>Áreas Prioritárias para Investimento no Turismo</i> )
<b>Assembleia Geral</b>	The General Assembly of a company, sometimes also called the General Meeting. The <b>Assembleia Geral</b> is the highest corporate body of a company; it is composed of the quotaholders or their representatives. The <b>Assembleia Geral</b> elects the management of the company. The <b>Assembleia Geral</b> must by law meet at least once a year and may meet more often. The minutes of those meetings are recorded in the <b>Livro de Actas</b> .
<b>Assinatura Reconhecida</b>	Signature on a document compared to that in an identity document and stamped as corresponding thereto, by the <b>Notary</b> .
<b>Auto de Vistoria</b>	Certificate of inspection (initial inspection) of company premises.
<b>Balcão Único</b>	One Stop Shop. These entities have been created in provincial capitals. They receive licensing applications for commercial licenses and for import and export permits, as well as the Single Form to Open Companies and Launch Business Activities ( <i>Formulário Único de Abertura de Empresa e Início de Actividade</i> ). The <b>Balcão Único</b> can also receive and verify applications for licensing tourism enterprises.
<b>Boletim República</b>	The official gazette of the Government of Mozambique, in which laws and regulations, as well as companies' articles of association, must be published.
<b>Caderneta de Controlo Sanitário</b>	Health and Safety Inspection Book. Purchased and then stamped by <b>CHAEM</b> . Must be available for inspection at company offices.
<b>Certidão Registo Comercial</b>	Certificate of commercial registration of legal entities, sometimes called the certidão comercial, issued by the Legal Entities Registry ( <i>Conservatória do Registo das Entidades Legais – CREL</i> ). The registration can be a provisional one, valid for 90 (ninety) days renewable, or permanent.
<b>Certidão Registo Predial</b>	Certificate of registration issued by the Real Estate Registry ( <i>Conservatória de Registo Predial</i> )
<b>CHAEM</b>	The <b>Centro de Higiene, Ambiente e Exames Médicos</b> , a division of the Provincial Health Directorate. <b>CHAEM</b> inspects company premises for health and safety prior to and as a condition of licensing, and carries out health checks on employees. <b>CHAEM</b> can inspect company premises at any time.
<b>Conservatória de Registo</b>	Commercial or Estate Registry. In Maputo, commerce and property registration are handled by distinct registries, the <i>Conservatória de Registo das Entidades Legais</i> and the <i>Conservatória de Registo Predial</i> . Elsewhere the conservatories are co-located and known as " <i>Conservatória de Registo</i> ".
<b>Cópia autenticada</b>	Copy of a document compared to the original and stamped as corresponding thereto by a <b>Notary</b> .
<b>DPTUR's</b>	Provincial Tourism Directorates ( <i>Direcções Provinciais de Turismo</i> )
<b>DUAT</b>	<i>Direito de Uso e Aproveitamento de Terra</i> . The right allowing access to land for its use and benefit by individuals and public entities.
<b>Esboço de localização</b>	Outline map – often used to refer to the map of the area for which <b>DUAT</b> has been requested.
<b>Empresa Unipessoal</b>	A limited liability quota company with a single quotaholder.
<b>Escritura Pública</b>	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 a <b>Notary</b> , with certain other

	documents attached.
<b>Estatutos</b>	The partnership agreement ( <i>pacto social</i> ) which includes the articles of association of a company, supplying the rules by which corporate life and the relationship between the quotaholders will be conducted.
<b>FUTUR</b>	<i>Fundo Nacional de Turismo</i> - National Tourism Fund. On 5 August 2008 extinguished by Government and replaced by the <i>Instituto Nacional de Turismo</i> (National Tourism Institute).
<b>Livro de Actas</b>	Company minutes book, in which the minutes of meetings of the <b>Assembleia Geral</b> are recorded.
<b>Livro de Reclamações</b>	Complaints book. Each tourism enterprise and each government department must have one. It can be used to raise both general and specific complaints.
<b>Memória descritiva</b>	Literally a written description.
<b>MICOA</b>	<b>Ministério para a Coordenação de Acção Ambiental.</b> The Ministry for Coordination of the Environment Action.
<b>MITUR</b>	<b>Ministério de Turismo.</b> The Tourism Ministry.
<b>Notário</b>	A properly qualified technician, associated to the Public Notaries, who is responsible for the preparation of public deeds (including for the purposes of incorporation of companies, purchase and sale of real estate, mortgages, among other acts), the official validation of certain other legal acts, the notarization of signatures and certification of copies of documents, among other duties. In Maputo, there is a variety of Public Notaries distributed around the City.
<b>NUIT</b>	<i>Número Único de Identificação Tributária</i> , or Unique Tax Identification Number. The <b>NUIT</b> is sometimes also referred to as the VAT ( <i>IVA</i> ) registration number. The <b>NUIT</b> must be clearly printed on all invoices and receipts, as well as being shown on any invoices and receipts issued by the company accounts. Individuals' personal tax identification numbers are also referred to as <b>NUITs</b> .
<b>SDAE's</b>	<i>Serviços Distritais de Actividades Económicas</i> - District Economic Services.
<b>Vistoria</b>	Inspection by officers of the relevant Provincial Directorate and others of the company's premises, prior to issuing an <b>Alvará</b> .

## 1. THEMATIC FRAMEWORK

### 1.1. BRIEF REFERENCE TO THE BACKGROUND OF TOURISM IN MOZAMBIQUE

The background of the legal regime of tourism in Mozambique and the current legal package relevant for the area comprise a set of policies, laws and other legal instruments, duly referenced throughout this manual<sup>1</sup>.

In 1993, the establishment of the National Tourism Fund (*Fundo Nacional de Turismo - FUTUR*), the statutes of which were approved in 2002<sup>2</sup>, was a milestone for the tourism legislation in Mozambique. FUTUR was established with the aim to promote the tourism product, to promote and coordinate initiatives and activities concerning tourism, as well as to stimulate all other activities related or contributing to the valuation of tourism<sup>3</sup>. This fund was extinct with the creation of the *Instituto Nacional de Turismo* (INATUR).

In 2003, the National Tourism Policy and Implementation Strategy (*Política Nacional de Turismo e Estratégia de Implementação*) was approved.

Subsequently, and through Law 4/2004 of 17 June, the Tourism Law was passed (*Lei de Turismo*, hereafter the Tourism Law), establishing the legal framework for conducting tourism activities in Mozambique. The Tourism Law applies to tourism measures, public sector activities aimed at promoting tourism, suppliers of tourism products and services, tourists and consumers of tourism products and services<sup>4</sup>.

The Law includes a number of definitions and establishes objectives which guide the performance of tourism activities in Mozambique, as well as the subordinate legislation for the sector. These objectives include<sup>5</sup>:

- Promotion of economic and social growth while preserving natural resources;
- Preservation of cultural and historic values and promotion of national pride;
- Contribution to employment creation, economic growth and poverty alleviation;
- Promotion of conservation and bio-diversity;
- Promotion of equal opportunities.

The Tourism Law was regulated by Decree 40/2005 of 30 August, subsequently revoked by Decree 18/2007 of 7 August. Currently in force is the Regulation for Tourism Enterprises, Restaurants, Drinking Establishments and Dance Halls, approved by Decree 97/2013 of 31 December (*Regulamento de Empreendimentos Turísticos, Restauração e Bebidas e Salas de Dança*, hereafter the Tourism Regulation). This Regulation revokes the previous Decree 18/2007.

The Tourism Regulation establishes the legal framework of the establishment, exploitation and operation of tourism enterprises, restaurants, drinking establishments and dance halls, as well as their classification system and registration.

The Tourism Law is regulated by a raft of additional legislation, which applies to the various sub-sectors within the main tourism sector. Thus, other technical and/or additional

<sup>1</sup> See the list of legislation on the Bibliography and Legislation page.

<sup>2</sup> Decree 28/2002 of 19 November

<sup>3</sup> Decree 10/93, Article 1.

<sup>4</sup> Tourism Law, Article 4.

<sup>5</sup> Tourism Law, Article 3

legislation – such as that which approves the Periodic Occupation Regulation, the Ecotourism Regulation, the Tourism Transport Regulation - constitute the legislative package for tourism.

In addition, the existence of other sectoral legislation with impact on the development of tourism activities should also be taken into account. For example, legislation on the environment, land use planning, public health and minors, construction, conservation and marine environment, investment, among other specific sectors, should be considered in each specific case in question.

*For more information about tourism in Mozambique, tourism-related institutions, main tourist sites of the country, accommodation, leisure, support services, among other relevant information, visit the website <http://www.turismomocambique.co.mz/>.*

## **1.2. POLICIES AND STRATEGIES IN THE TOURISM AREA**

In 2003, the National Tourism Policy and Implementation Strategy was approved through Resolution 14/2003 of 4 April. It defines as guiding principles for the development of tourism in Mozambique, among others: the establishment of an institutional framework, of a planning and control mechanism and active participation in the creation of a favourable environment for the development of tourism; the recognition of the private sector as driver of the development of the tourism industry; the promotion of partnerships between the public sector, the private sector and the communities in the development of the sector; and the integration of tourism in the context of international cooperation<sup>6</sup>.

These principles are supported by economic, social and environmental objectives<sup>7</sup>. The need for integrated planning, zoning of land for the tourism sector, and infrastructure investments are among the areas identified by the Policy as priority areas<sup>8</sup>. Others include the preservation of conservation areas, the development of skills and training, and community involvement<sup>9</sup>.

The Policy includes a strategy for its implementation<sup>10</sup>. The strategy focuses on the need for: integrated planning at national, provincial and district levels; zoning of land for tourism; infrastructure development particularly with regard to transport links; provision of public services; management of impacts, sustainability and community involvement; investment promotion; product development, diversification and marketing; and development of standards<sup>11</sup>.

The Tourism Policy & Strategy was complemented by the Tourism Marketing Strategy (*Estratégia de Marketing do Turismo*), approved for the period 2006-2013 through Resolution 45/2006 of 26 December. This Marketing Strategy provided information about the context in which it was developed and approved<sup>12</sup>, and a diagnostic of the current situation of

<sup>6</sup> National Tourism Policy, Paragraph 5.

<sup>7</sup> National Tourism Policy, Paragraph 6.

<sup>8</sup> National Tourism Policy, Paragraph 7.

<sup>9</sup> National Tourism Policy, Paragraph 7.

<sup>10</sup> National Tourism Policy, Paragraph 9.

<sup>11</sup> National Tourism Policy, Paragraph 9.

<sup>12</sup> Resolution 45/2006 of 26 December, Paragraph 2.

tourism marketing in Mozambique<sup>13</sup>. It then outlined strategic objectives and marketing activities<sup>14</sup>, the expected outcomes<sup>15</sup>, and the budget for these activities<sup>16</sup>.

The Marketing Strategy identified the key geographical areas as Priority Tourism Investment Areas (*Áreas Prioritárias para Investimento no Turismo – APITs*), based on the establishment of this concept in the Tourism Policy & Strategy,<sup>17</sup> namely<sup>18</sup>:

- Type A: Greater Maputo; Inhambane Coast; Vilanculos/Bazaruto
- Type A/B: Elephant coast; Xai Xai coast; Sofala tourism area; Ilha de Moçambique/Nacala; Pemba/Quirimbas
- Type B: Limpopo – Massingir; Limpopo – Mapai; Gorongosa tourism area; Manica tourism area; Cahora Bassa tourism area; Gilé/Pebane; Gurué tourism area; Northern Cabo Delgado; Lake Niassa; Niassa Reserve

Each of the zones is then further subdivided according to the type of tourism to be promoted there. These classifications are provided in Annex 7.1.

The Marketing Strategy also identified a series of tourism routes to be promoted<sup>19</sup>. Details of each route are provided in Annex 7.2. The Marketing Strategy identified eco-tourism, adventure tourism and cultural tourism as the niche tourism areas which Mozambique should be seeking to promote<sup>20</sup>.

The Marketing Strategy also provided a series of actions which should be undertaken in order to promote and develop the tourism sector. These include improved data gathering, improved marketing and infrastructure development. Though the period established for the application of the Marketing Strategy has ended, it is noted that there is still a lot to be done in terms of data collection, the attraction of tourists and investors and the improvement of the necessary infrastructures for the growth of the tourism sector in the country.

It is also noted that the Five-Year Government Programme 2010-2014, approved through Resolution 4/2010 of 13 April, identifies tourism as a “development pole” of the country and defines strategic objectives and priority actions. We note the issue of the improvement of the quality of the provision of strategic products and services, with better training and better supervision; the incentive for partnerships with the private sector and local communities for the diversification of tourism products; the rehabilitation of the Conservation Areas and the development of a Tourism Information Management System, as some of the main objectives defined for this period.<sup>21</sup>

It should also be noted that Mozambique participates in the regional strategies for concerted actions in boosting tourism. In this scope, Mozambique has ratified the Protocol on the Development of Tourism in the Southern African Development Community (SADC) Region, through Resolution 12/2001 of 20 March. In the scope of this Protocol the participating states undertake to take actions in order to design harmonised policies in

<sup>13</sup> Resolution 45/2006 of 26 December, Paragraph 3.

<sup>14</sup> Resolution 45/2006 of 26 December, Paragraph 4.

<sup>15</sup> Resolution 45/2006 of 26 December, Paragraph 5.

<sup>16</sup> Resolution 45/2006 of 26 December, Paragraph 6.

<sup>17</sup> National Tourism Policy, Paragraph 7.13.

<sup>18</sup> Resolution 45/2006 of 26 December, Paragraph 3.8.

<sup>19</sup> Resolution 45/2006 of 26 December, Paragraph 3.9.

<sup>20</sup> Resolution 45/2006 of 26 December, Paragraph 3.10.

<sup>21</sup> Resolution 4/2010 of 13 April, Paragraph 2.2.24, 131 and 132.

terms of facilitating travels, education and training in the area of tourism, trade and tourism promotion, service standards, environmentally sustainable tourism, among other aspects.

### 1.3. MAIN INSTITUTIONAL FRAMEWORK IN THE AREA OF TOURISM IN MOZAMBIQUE

ENTITY	COMPETENCES
Ministry of Tourism (MITUR)	<p>MITUR is the government institution responsible for the promotion and licensing of tourism activities in Mozambique. It is this entity's responsibility to direct, plan and execute the policies in the fields of tourism activities, hotel industry, and conservation areas for tourism purposes. The Provincial Directorates of Tourism (<i>Direcções Provinciais de Turismo – DPTURs</i>) and District Economic Services (<i>Serviços Distritais de Actividades Económicas – SDAEs</i>) are the local representatives of MITUR. The Tourism Inspectorate (<i>Inspecção Geral de Turismo</i>) is responsible for inspecting tourism activities to ensure that they are legally compliant<sup>22</sup>.</p> <p>It is this entity's responsibility to license the opening, alteration, enlargement, relocation, closure or suspension of 3, 4 and 5 star (including deluxe) tourist accommodation establishments, and camp sites, tourist villages, tourism complexes, whatever their classification.</p>
Provincial Governor (may delegate to the Provincial Director of Tourism <sup>23</sup> )	It is this entity's responsibility to license the opening, alteration, enlargement, relocation, closure or suspension of 1 and 2 star establishments and private lodgings.
Mayor (in urban areas officially designated as towns), or the District Administrator (in rural areas). Both may delegate to the relevant tourism representative at municipal or district level <sup>24</sup> .	It is this entity's responsibility to license the opening, alteration, enlargement, relocation, closure or suspension of all single classification establishments, unless these fall under the competency of the Provincial Governor or territorial MITUR.
National Tourism Institute ( <i>Instituto Nacional de Turismo - INATUR</i> )	Decree 36/2008 of 17 September extinguished the National Tourism Fund (FUTUR) and created INATUR. This Decree defines among

<sup>22</sup> Ministerial Diploma 102/2002 of 3 July – The General Inspectorate of Tourism Regulation

<sup>23</sup> Decree 18/2007 of 7 August, Article 12, clause b)

<sup>24</sup> Decree 18/2007 of 7 August, Article 12, clause c)

	<p>its powers: promotion of the development of the tourism sector; classification of tourism establishments; development of tourism interest zones; development of studies and development programmes; promotion of tourism activities; provision of guarantees to credit institutions and attracting funding for the development of tourism; identification of tourism interest zones and participation in tourism zoning; among others. – <i>For more information visit <a href="http://www.inatur.org.mz/">http://www.inatur.org.mz/</a>.</i></p>
<p>National Administration of Conservation Areas (<i>Administração Nacional das Áreas de Conservação - ANAC</i>)</p>	<p>ANAC was created through Decree 11/2011 of 25 May and is supervised by the Minister of Tourism. In 2013 this Decree had undergone a few changes, through Decree 9/2013 of 10 April. The main competencies of ANAC in the scope of conservation area management are: implement the Conservation Policy; propose the issuing of special licenses to the competent entity; issue licenses for hunting and ecotourism activities; guarantee the management of conservation areas; ensure the coordination with all entities with convergent interests, as well as the cooperation with international entities with the aim of complying with the International Law; establish Conservation Area Management Councils (<b><i>Conselhos de Gestão das Áreas de Conservação</i></b>) which, among other tasks, will contribute to the development of partnerships with the private sector and with local communities; conclude contracts and agreements in the scope of public, private and community partnerships and monitor their implementation; among others.</p>

#### 1.4. CLASSIFICATION OF TOURISM ACTIVITIES, DEVELOPMENTS AND ESTABLISHMENTS AND FUNDAMENTAL PRINCIPLES OF THE DEVELOPMENT OF THE ACTIVITY IN THE COUNTRY

##### 1.4.1. *Classification of tourism activities*

The Tourism Law provides a list of activities which may be provided by natural or legal persons and which can be performed by suppliers of tourism products and services, namely<sup>25</sup>:

- a) Tourism & travel agencies;
- b) Tourism agents;
- c) Tourist entertainment;
- d) Vehicle hire for tourism purposes;

<sup>25</sup> Tourism Law, Article 15.

- e) Tourism complexes;
- f) Camping;
- g) Ecotourism;
- h) Periodic occupation (timesharing);
- i) Hotel industry;
- j) Tourist information;
- k) Games of chance;
- l) Supplementary tourist accommodation;
- m) Recreational diving;
- n) Catering and beverages;
- o) Tourist transport;
- p) Hunting tourism;
- q) Other activities established by the Council of Ministers.

#### 1.4.2. *Classification of tourism enterprises*

The Tourism Regulation defines the types of tourism developments and provides comprehensive requirements for the development, operation and licensing of each. The types of developments envisaged by the legislation are<sup>26</sup>:

- a) **Private lodging for tourism purposes** (*alojamento particular para fins turísticos*) – private dwelling available for temporary rental to people who travel for tourism purposes, with a kitchen and other compartments;
- b) **Rental of rooms for tourism purposes** (*aluguer de quartos para fins turísticos*) – accommodation with a minimum of 3 (three) and a maximum of 7 (seven) rooms. This type of accommodation is “family” in nature with the owner having the option of living in an annex to the establishment;
- c) **Country house** (*casa de campo*) – buildings for tourism purposes situated in villages or rural spaces that integrate building materials and other characteristics into the typical local architecture;
- d) **Guesthouse** (*casa de hóspedes*) – establishment which may be, but does not have to be, integrated into a family dwelling and which offers between (3) three and (10) ten rooms, serving breakfast and optionally also lunch and dinner;
- e) **Tourism complex** (*conjunto turístico*) – a grouping of independent establishments within a defined area, sharing a single administration, but comprising one or more types of tourism accommodation, and optionally including restaurants, bars and dance halls;
- f) **Agro-tourism establishment** (*estabelecimento de agro-turismo*) – buildings situated in agricultural holdings, allowing guests to follow and get to know agricultural activities, or their participation in these activities, according to rules established by their owners;
- g) **Hotel** (*hotel*) – establishment occupying all or part of a building, and being completely independent with guest-only access to the floors it occupies;
- h) **Apartment-hotel** (*hotel-apartamento*) – a group of independent, furnished apartments, within their own building, and operated as a hotel;
- i) **Resort-hotel** (*hotel-resort*) – leisure hotel, in general situated outside urban areas in particularly beautiful areas, offering various options of recreational, sports and cultural activities to the guests, and a full restaurant service;
- j) **Lodge** (*lodge*) – accommodation based on nature tourism such as safari, diving and appreciation of natural resources, constructed in local materials and style;

<sup>26</sup> Tourism Regulation, Article 1.



- k) **Half-board accommodation** (*meia pensão*) – renting of a room and provision of breakfast and one of the main meals, lunch or dinner;
- l) **Motel** (*motel*) – short-stay hotel accommodation, comprising lodging units with direct access to the outside, and with garage or private parking next to each apartment. Services are provided centrally. Predominantly situated in the periphery of large cities, in rural areas and next to roads with a lot of traffic, as well as in summer vacation places;
- m) **Camp site** (*parque de campismo*) – enterprise established in a delimited area which provides sufficient infrastructure for the installation of tents, caravans and other forms of temporary accommodation, either for free or on a payment basis;
- n) **Boarding house** (*pensão*) – normally a family-run establishment which, on account of its characteristics, equipment, general look, location and capacity, cannot be categorized as a hotel. In addition to accommodation, meals are served to guests and passers-by. A *pensão* can be either “standard” or “complete”, depending on the type of meals it serves;
- o) **Tourism homestead** (*quinta para fins turísticas*) – a private dwelling which offers accommodation, food, drinks and dancing, at which the owner or operator may reside or not.

#### 1.4.3. Classification of dining, drinking and dance establishments

In addition to the aforementioned tourism enterprises, the Tourism Regulation also establishes the following types of dining and drinking establishments and their respective categories:

- a) **Drinking Establishment:** providing drinks and cafeteria service in return for payment, this establishment provides items for consumption on or outside the premises and can be called a bar, beer hall (*cervejaria*), café, cake shop (*pastelaria*), tea room (*salão de chá*), ice cream parlour (*geladaria*), pub or tavern (*taberna*). It specialises in providing drinks directly to customers;
- b) **Dining Establishment:** providing food and drinks, in return for payments, either on or outside the premises and comprises restaurants, fish bars (*marisqueiras*), diners (*casas de pasto*), pizzerias (*pizarias*), snack bars, and take away establishments;
- c) **Dance Hall:** providing places for dancing as well as shows, with the provision of drinks, and sometimes food, and comprising night clubs, discotheques, dancings and cabarets;
- d) **Spa** – commercial establishment with an elegant space and with a specific structure to offer health, beauty and wellness treatment to the customers.

For the classification of tourism enterprises or establishments, aspects related to service quality are considered, taking into account the following requirements<sup>27</sup>:

- a) Characteristics of the facilities and equipment;
- b) Reception service;
- c) Cleaning and laundry service;
- d) Food and beverage service;
- e) Ancillary services.

INATUR is the competent authority for the classification and reclassification of tourism establishments. For this purpose, upon communicating the decision authorizing the commencement of operation of an establishment, the competent licensing authority shall

<sup>27</sup> Tourism Regulation, Article 67, paragraph 2.

remit the process to INATUR, which shall carry out its classification within three months, after which the process is returned to the licensing authority for the purpose of approval<sup>28</sup>.

Note, however, that detailed minimum requirements apply to each classification and that establishments are subject to fines if they do not comply with the respective minimum requirements.

It is possible to change classification after licensing, unofficially or at the request of the interested party, when there is a change of the assumptions that determined the respective attribution<sup>29</sup>. It is also noted that the classification of tourism establishments must mandatorily be revised every four years, through a request of the interested party submitted within six months before the end of the term<sup>30</sup>.

#### 1.4.4. *Fundamental principles of the development of tourism activities in Mozambique*

The Constitution of the Republic of Mozambique is the main instrument for the organization of the Mozambican State. Currently in force is the 2004 Constitution of the Republic of Mozambique (hereafter Constitution of the Republic). Previous constitutions were the 1975 Constitution and the 1990 Constitution.

Among the fundamental objectives of the Constitution of the Republic that are relevant for the business sector are the following: promotion of balanced economic, social and regional development in the country; development of the economy and scientific and technological progress; and the establishment and development of relations of friendship and cooperation with other peoples and States<sup>31</sup>.

The Constitution of the Republic also stipulates that the State shall guarantee foreign investment, which shall operate within the framework of State economic policy, and in these terms foreign ventures shall be permitted in all of the national territory and in all economic sectors, except those that are reserved exclusively for ownership or development by the State<sup>32</sup>.

The Tourism Law also establishes the objectives that guide tourism activities in Mozambique and subordinate legislation for the sector. These objectives include<sup>33</sup>:

- Promotion of economic and social growth while preserving natural resources;
- Preservation of cultural and historic values and promotion of national pride;
- Contribution to employment creation, economic growth and poverty alleviation;
- Promotion of conservation and bio-diversity;
- Promotion of equal opportunities.

The Tourism Law specifically promotes sustainable, low-impact tourism, requiring that tourism investments be well-integrated within the area in which they are placed<sup>34</sup>. The Tourism Law provides for the establishment of Tourism Interest Zones (*Zonas de Interesse*

<sup>28</sup> Tourism Regulation, Article 69.

<sup>29</sup> Tourism Regulation, Article 72, paragraph 3.

<sup>30</sup> Tourism Regulation, Article 72, paragraph 1.

<sup>31</sup> Constitution of the Republic, Article 11.

<sup>32</sup> Constitution of the Republic, Article 108.

<sup>33</sup> Tourism Law, Article 3.

<sup>34</sup> Tourism Law, Article 7.

*Turística*), which may be designated by the Council of Ministers, such designation including details of what activities may be undertaken within these zones<sup>35</sup>.

The Tourism Law also allows for the development of tourism in conservation areas as long as activities are based on sustainable practice and an approved management plan<sup>36</sup>.

The Tourism Law establishes a series of obligations for providers of tourism products and services. These include<sup>37</sup>:

- Legal compliance for each sub-sector;
- Public display of details relating to prices and rates in the national currency (Metical) and official language (Portuguese), as well as in other currencies and languages, if appropriate;
- Protection of the environment and respect local culture;
- Ensuring that activities are appropriately insured;
- Non-discrimination on any basis;
- Provision of facilities and access for the disabled;
- Respect for anti-smoking legislation.

However, the providers of tourism products and services are also vested with the following rights<sup>38</sup>:

- Free exercise of their activities within the legal requirements for each sector and sub-sector;
- Approval of activities if the appropriate legal requirements have been fulfilled;
- Promotion of activities in official tourism promotion materials;
- Participate in training, promotion and development activities for the sector.

In addition to establishing the rights and responsibilities of tourism operators, the Tourism Law also establishes the rights and responsibilities of tourists. These include the right to<sup>39</sup>:

- Obtain accurate, complete, objective information about tourism services;
- Benefit from products and services at the prices advertised;
- Obtain documents which contractually establish the price they are to pay for a specific item or service;
- Enjoy tranquillity, security and privacy;
- Complain under the terms of the law and receive adequate response to such complaints;
- Obtain the relevant information required to prevent disease and accidents.

And the obligations include<sup>40</sup>:

- Comply with the law;
- Respect local culture and tradition;
- Respect the environment.

<sup>35</sup> Tourism Law, Article 8.

<sup>36</sup> Tourism Law, Article 9.

<sup>37</sup> Tourism Law, Article 16.

<sup>38</sup> Tourism Law, Article 17

<sup>39</sup> Tourism Law, Article 20

<sup>40</sup> Tourism Law, Article 21

The Tourism Law also provides for the establishment of quality standards for tourism services<sup>41</sup>, and for inspections and the taking of measures against those who contravene the legislation<sup>42</sup>, particularly in respect of abuse of minors<sup>43</sup>.

The Tourism Regulation stipulates that the authorisation of tourism projects shall always take into account the Tourism Policy and Implementation Strategy as well as the tourism development plans.<sup>44</sup>

## 1.5. TERRITORIAL CLASSIFICATION RELEVANT FOR TOURISM

### 1.5.1. *Legislation on land planning*

The **Territorial Planning Law** (*Lei do Ordenamento do Território*), Law 19/2007 of 18 July, defines “land use planning” as the “set of principles, directives and rules aimed at guaranteeing the organization of the national territory through a dynamic, continuous, flexible and participatory process in the pursuit of an equilibrium between men, the physical environment and the natural resources, with a view to the promotion of sustainable development.”<sup>45</sup> This law applies to the entire national territory and, together with its **Regulation**, approved by **Decree 23/2008 of 1 July**, define the objectives of territorial planning, as well as the different types of planning tools to be created, the procedures, public participation, competencies, among other standards, such as the rules to be followed in cases of expropriations out of necessity, public utility or interest. Ministerial Diploma 181/2010 of 3 November, approving the **Directive on the Process of Expropriation for the Purpose of Territorial Planning** (*Directiva sobre o Processo de Expropriação para efeitos de Ordenamento Territorial*), as well as **Decree 31/2012 of 8 August**, approving the **Regulation on the Resettlement Process Resulting from Economic Activities** (*Regulamento sobre o Processo de Reassentamento Resultante de Atividades Económicas*), complement these instruments and define the rules for fair indemnity and compensation in cases of expropriation and relocation of the population.

The Tourism Regulation stipulates that the location of tourism enterprises, restaurants, drinking establishments and dance halls, in urban centres or areas covered by already approved urbanization plans, can only be authorised within the zones indicated for this purpose or, in their absence, through an opinion of the respective local government or competent authority, explicitly stating that they do not oppose the location of the enterprise in question.<sup>46</sup>

### 1.5.2. *Tourism Interest Zones*

The Tourism Interest Zones – “ZITs”, regulated by Decree 77/2009 of 15 December, approving the **Regulation on Tourism Interest Zones** (*Regulamento das Zonas de Interesse Turístico*) are especially intended to promote tourism activities. This Regulation establishes that any region or area of the national territory, occupied or not, can be declared a tourism interest zone, provided that it has relevant characteristics, such as natural, historical-cultural resources, capable to give rise to flows of domestic and foreign tourists, with economic

<sup>41</sup> Tourism Law, Article 22

<sup>42</sup> Tourism Law, Chapter VII

<sup>43</sup> Tourism Law, Article 26

<sup>44</sup> Tourism Regulation, Article 3.

<sup>45</sup> Territorial Planning Law, Article 1.

<sup>46</sup> Tourism Regulation, Article 5.

dynamics essentially based on the development of the tourism activity as its main activity<sup>47</sup>. Other areas different from those indicated here may also be covered, provided that they have potential to produce integrated ecotourism projects or have already been identified as priority areas for the development of tourism<sup>48</sup>.

The Territorial Planning Instruments approved or changed under the terms of a specific diploma for the declaration of each zone are applicable to ZITs. The issuing of DUATs and special licenses is subject to a binding opinion of INATUR on pain of not being valid. (*For more details see Section 3.1 below*).

### 1.5.3. Conservation Areas

The **Conservation Law** (*Lei de Conservação*), approved by Law 16/2014 of 20 June, establishes the classification of protection areas and the categorization of conservation areas. Thus, the Law defines **protection zones** as "*delimited territorial areas, representative of the national natural heritage, intended for the conservation of the biological diversity and fragile ecosystems or animal or plant species.*"<sup>49</sup> In their turn, these zones are divided into total conservation areas and conservation areas of sustainable use.

**Total conservation areas** are defined as "*areas of the public domain, intended for the conservation of ecosystems and species without the extraction of resources, only allowing the indirect use of the natural resources with the exceptions laid down in this Law.*"<sup>50</sup> **Conservation areas of sustainable use** are defined as "*areas of the public domain and the private domain, intended for conservation, subject to integrated management, levels of extraction of the resources being allowed which respect the sustainable limits in according to the management plans.*"<sup>51</sup>

Each one of the above-indicated areas is divided into different categories of conservation area management.<sup>52</sup> To the total conservation areas belong:

- entire nature reserves,
- national parks, and
- cultural and natural monuments.

To the conservation areas of sustainable use belong:

- special reserves;
- environmental protection zones;
- official game parks (*coutadas*);
- community conservation areas;
- sanctuaries;
- game farms; and
- municipal ecological parks.

The Conservation Law provides for the possibility of public-private partnerships and partnerships with local communities for the sustainable development of the conservation areas, in which tourism activities may be developed that are compatible with their purpose

<sup>47</sup> Regulation on Tourism Interest Zones, Article 3 (1).

<sup>48</sup> Regulation on Tourism Interest Zones, Article 3 (2, 3).

<sup>49</sup> Conservation Law, Article 13 (1).

<sup>50</sup> Conservation Law, Article 13 (4).

<sup>51</sup> Conservation Law, Article 13 (5).

<sup>52</sup> Note: the concept and as characteristics of each one of these categories will be elaborated on in the Manual on the Conservation Law in preparation; we will therefore not enter into details here.

and in agreement with the management plans of each area. (*For more details see Section 3.2.1 below*).

## 2. OBTAINING A LICENSE FOR A TOURISM AND RELATED ACTIVITIES

Any activity which falls within the scope of the tourism sector requires a license. Methods of licensing for different types of activity are regulated by various pieces of legislation. To simplify matters we have chosen to group types of tourism activity and to describe the procedures applicable to the licensing of these activities.

The procedures for licensing, alteration, enlargement, relocation, closure or suspension of tourism enterprises are generally the same. Below we refer to licensing, however, the same procedures are in principle applicable to any alteration to the tourism enterprise. Note that any significant changes must be reported to the relevant authority and may be subject to the requirement to follow a new set of procedures, as outlined below.

*Wherever possible any documents submitted should be notarised copies rather than originals. It is good practice to keep a copy of any documents submitted, including forms, and where possible to have the copy signed, dated and stamped with an official stamp of the recipient.*

*Also note that where numbers of days are indicated below, as for example the time period for issuing a document, these are **working days** and not calendar days. If the legislation specifically indicates calendar days, this is noted in the text.*

### 2.1. REGULATION FOR TOURISM ENTERPRISES, RESTAURANTS, DRINKING ESTABLISHMENTS AND DANCE HALLS

As mentioned above, the Tourism Regulation establishes the legal framework for the establishment, exploitation and operation of tourism enterprises, restaurants, drinking establishments and dance halls, as well as their classification and registration system. This regulation contains comprehensive rules for various types of accommodation establishments, as well as for establishments offering food, drinks and entertainment.

This section refers to the rules applicable to *temporary tourist accommodation establishments*.

#### 2.1.1. Categories of Tourism Enterprises

Under the Tourism Regulation, tourism enterprises can be divided into the following categories<sup>53</sup>:

Type of enterprise	Categories
Hotel	From 5 to 1 star
Resort-Hotel	From 5 to 3 stars
Lodge	From 5 to 1 star
Apartment-Hotel	From 4 to 2 stars
Residential Hotel <sup>54</sup>	From 4 to 1 star
Boarding House	From 4 to 1 star
Residential Boarding House <sup>55</sup>	From 4 to 1 star
Camp Site	From 4 to 1 star

<sup>53</sup> Tourism Regulation, Article 7

<sup>54</sup> Note that this category is not defined in Article 1 of the Tourism Regulation

<sup>55</sup> Note that this category is not defined in Article 1 of the Tourism Regulation

Motel	From 3 to 2 stars
Guesthouse	From 4 to 1 star
Private Lodging for tourism purposes	Single Classification
Room hire for tourism purposes	Single Classification
Tourism Complex	Single Classification
Country House	Single Classification
Agro-Tourism Establishment	Single Classification
Tourism Homestead	Single Classification

The dining and drinking establishments are divided into the following categories:

Type of establishment	Categories
Restaurant	Deluxe, 1 <sup>st</sup> , 2 <sup>nd</sup> and 3 <sup>rd</sup> class
Themed Restaurant	Deluxe, 1 <sup>st</sup> , 2 <sup>nd</sup> and 3 <sup>rd</sup> class
Bar, Snack Bar and Beer Hall	Deluxe, 1 <sup>st</sup> , 2 <sup>nd</sup> and 3 <sup>rd</sup> class
Cake Shop and Tea Room	1 <sup>st</sup> , 2 <sup>nd</sup> and 3 <sup>rd</sup> class
Cafe	1 <sup>st</sup> , 2 <sup>nd</sup> and 3 <sup>rd</sup> class
Ice Cream Parlour	1 <sup>st</sup> , 2 <sup>nd</sup> and 3 <sup>rd</sup> class
Pizzeria	Single Classification

The dance establishments provided for by the Tourism Regulation are classified as deluxe, 1<sup>st</sup> to 3<sup>rd</sup> class.

As mentioned above, INATUR is competent for the classification and reclassification of tourism establishments, while the classification is subject to approval by the licensing authority.

#### 2.1.2. Competencies, Licensing Procedures and Requirements relating to Accommodation Establishments

##### 2.1.2.1. Competences relating to accommodation establishments

The type of establishment and its category determine which authority has the competency to license its opening, alteration, enlargement, relocation, closure or suspension of activity, as follows<sup>56</sup>:

Licensing authority	Type and category of establishment
MITUR	a) 4 and 5 star accommodation establishments; b) Tourism complexes; c) Camp sites; d) Agro-tourism establishments, and e) Country houses.
Provincial Governor (may delegate to the Provincial Director of Tourism <sup>57</sup> )	a) 3 and 2 star establishments; b) deluxe and 1 <sup>st</sup> class restaurants, drinking establishments and dance halls; and c) Pizzerias.
The Mayor (in urban areas), or the District Administrator (in rural areas not covered by the municipalization). Both of	a) 1 star accommodation establishments; b) Private lodging for tourism purposes; and c) 2 <sup>nd</sup> and 3 <sup>rd</sup> class restaurants and drinking

<sup>56</sup> Tourism Regulation, Article 10.

<sup>57</sup> Tourism Regulation, Article 11, clause b).



them may delegate to the relevant tourism representative at municipal or district level <sup>58</sup> .	establishments and dance halls.
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Notwithstanding the above, it should be taken into account that the entities that are competent to initiate the licensing procedures for accommodation establishments are different from those that are competent to authorise their establishment, alteration, enlargement, relocation, closure or suspension. The competent entities to initiate the proceedings are presented below:

Licensing authority	Type and category of establishment
Licensing authority at central level	a) 4 and 5 star accommodation establishments; b) Tourism complexes; c) Camp sites; d) Agro-tourism establishments, and e) Country houses.
Licensing authority at provincial level	a) 3 and 2 star establishments; b) Deluxe and 1 <sup>st</sup> class restaurants, drinking establishments and dance halls; and c) Pizzerias.
Licensing authority at municipal council or district government level, according to the case	a) 1 star accommodation establishments; b) Private lodgings for tourism purposes; and c) 2 <sup>nd</sup> and 3 <sup>rd</sup> class restaurants, drinking establishments and dance halls.

*Prior to commencing the procedures concerning an activity involving the accommodation of tourists the investor is required to decide which type or types of accommodation will be provided and what classification they will be provided under. This decision will determine to which authority the licensing application shall be addressed, and will also determine, in considerable details, the layout and operation of the intended establishment.*

The specifications for each type and category of establishment are provided in the Annexes to the Tourism Regulation.

#### 2.1.2.2. Licensing process concerning accommodation establishments

Overall, the licensing application process is similar for each type and category of accommodation, varying depending on whether or not the project is a new-build or is taking place in an existing structure/building. The procedures described below are therefore generic. Where these differ for a given type or category of accommodation this is indicated.

The licensing process begins with an initial request, submitted in the form of an application letter addressed to the relevant authority for the licensing of the type of accommodation proposed. The signature on this letter must be notarized by a notary (*assinatura reconhecida*) and the letter must include the following information<sup>59</sup>:

- a) Full name, filiation, nationality, identity card and validity and residential address, (in the case of a natural person);

<sup>58</sup> Tourism Regulation, Article 11, clause c).

<sup>59</sup> Tourism Regulation, Article 13, paragraph 1.

- b) Address of the organisation's headquarters, authorized legal representative and the Government Gazette (*Boletim da República*) in which the articles of association (*estatutos*) are published (in the case of a legal person);
- c) Location of the proposed enterprise.

The application letter referred to above must be accompanied by the following documents:

- a) A certified copy of the certificate of the definitive registration of the company with the Legal Entities Registry (in the case of a legal person);
- b) A certified copy of the articles of association of the company (in the case of a legal person);
- c) A certified copy of the identity card (in the case of a natural person);
- d) Written opinion of the local authority responsible for the area of the proposed activity;
- e) Written opinion about the environmental impact of the activity issued by the relevant environmental authority;
- f) Number of workers to be employed and the value to be invested;
- g) Land use title (*Direito de Uso e Aproveitamento de Terra - DUAT*) for tourism purposes (*it should be taken into account that in some areas proposed developments may not be eligible for a DUAT, but only a special license, as for example in areas of the public domain, as mentioned below*);
- h) Proof of payment of the fee for the analysis and approval of the project, based on the completion of forms "B" and "11" available from MITUR.

It should be recalled that ANAC is the entity created to execute, among other tasks, the institutional coordination of issues related to conservation areas. One of its competencies is to "*Propose the issuing of special licenses by the competent authority for the carrying out of activities in conservation areas.*"<sup>60</sup>

In addition to the foregoing, it is noted that the Tourism Regulation determines that, when tourism developments require an authorization to use land, which is part of the public maritime domain or under the jurisdiction of other authorities, the special license proving the authorization of the development by these authorities must be provided by the applicant as part of the executive project<sup>61</sup>. If this authorization is not forthcoming the licensing authority may suspend the application for 30 (thirty days) after which it is filed<sup>62</sup>. However, if the tourism development is considered sufficiently important to the tourism sector, the licensing authority may intervene with the authority responsible for the area of land in question to request that the authorization be expedited<sup>63</sup>.

It is also noted that the Tourism Regulation establishes a few additional requirements for cases of tourism projects in conservation areas. In these cases, the applicant must consider the conditions laid down in the management plan, the tourism development plan and other legal instruments relevant for the areas in question. The licensing authority may dispense with some of the requirements for developments in other areas, which will be discussed below. In addition to the opinions indicated above, the applicant must include:<sup>64</sup>

- a) The opinion of the administrator of the area in question;
- b) The opinion of the body supervising maritime administration in the case of conservation areas overlooking the sea;

<sup>60</sup> Decree 9/2013 of 10 April, Article 4, clause e).

<sup>61</sup> Tourism Regulation, Article 28, paragraph 1.

<sup>62</sup> Tourism Regulation, Article 28, paragraph 2.

<sup>63</sup> Tourism Regulation, Article 28, paragraph 3.

<sup>64</sup> Tourism Regulation, Article 14.

- c) Minutes of the hearing of the resident local communities.

In case the activity is established in a buffer zone, the following must also be submitted:

- a) The opinion of the Minister of Tourism;
- b) The opinion of the local State authorities;
- c) The opinion of the body supervising maritime administration in the case of conservation areas overlooking the sea;
- d) Minutes of the consultation with the resident local communities.

The application letter and all supporting documents must be submitted in quadruplicate, with the exception of photographs which may be submitted in duplicate. The licensing authority may request more copies of documents submitted, or the submission of additional documents to facilitate decision-making on the project<sup>65</sup>.

The initial request having been approved, a more detailed executive project is submitted<sup>66</sup>. Depending on whether or not the accommodation establishment is a new-build or is taking place in a previously existing structure/building, the documents applicable for the approval of the executive project may be different. Below we will give a detailed indication of the documents that are applicable to each one of the cases.

#### **a) Preparation and submission of the executive project**

All documents must be submitted in quadruplicate, with the exception of photographs which may be submitted in duplicate<sup>67</sup>. The licensing authority may however request more copies of documents submitted, or the submission of additional documents to facilitate decision-making on the project<sup>68</sup>.

##### *Executive project for new-builds*

The executive project for a new-build requires the submission of the following documents<sup>69</sup>:

- Plans to scale 1:1000 or 1:2000 showing the overall construction to be undertaken;
- Plans to scale 1:100 showing the buildings and their different floors in sufficient detail to provide an understanding of the layout, type of building planned, circulation routes and equipment;
- Plans of longitudinal and transversal transects permitting understanding of what is to be built, with at least one plan showing a transect along vertical access routes;
- Sketches to scale 1:100 of the exterior of the buildings showing the finishings;
- Plans showing drainage, including solutions for dealing with domestic and rainwater drainage, road access and electrical drawings;
- Declaration of the architect or engineer responsible for the works, that the provisions of the legal framework of urban constructions and the hygiene and safety, sanitation and environmental requirements were met, issued by the competent authority;
- Detailed written description (*memória descritiva*) of the proposed activity, including: physical characteristics of the area, geographical and hydrographical orientation,

<sup>65</sup> Tourism Regulation, Article 27.

<sup>66</sup> Tourism Regulation, Articles 17 to 19.

<sup>67</sup> Tourism Regulation, Article 27, paragraph 1.

<sup>68</sup> Tourism Regulation, Article 27, paragraph 2.

<sup>69</sup> Tourism Regulation, Article 17.

and types of vegetation; integration of the proposed development in the local area from an architectonic and landscape point of view; general description of the composition and essential characteristics of the construction; operation of the different types of services and buildings including linkages, circulation routes, ventilation; categorization and classification of the proposed development; planned time period for start of construction; guest capacity and investment value; plans and floor space allocated to each part of the development in accordance with legal requirements based on the annexes to the Tourism Regulation;

- Plans and written descriptions must include details of defined smoking and non-smoking areas, and provisions for disabled accesses, facilities and equipment.

If the development is to be carried out in phases, these must be clearly indicated in the documents submitted.

#### *Executive project for an existing building*

The executive project for a development in an existing building requires the submission of the following documents<sup>70</sup>:

- Plans of the building to scale 1:100 showing the different floors, planned development, circulation routes and equipment;
- Plans of longitudinal and transversal transects to scale 1:100 permitting understanding of what is to be developed, with at least one plan showing a transect along vertical access routes;
- Sketches to scale 1:100 of the exterior of the buildings showing the finishings;
- Plans showing drainage, including solutions for dealing with domestic and rainwater drainage, road access and electrical drawings, if required;
- Declaration, issued by the competent authority or signed by the architect or engineer responsible for the works, that the provisions of the legal framework of urban constructions and the hygiene and safety, sanitation and environmental requirements were met;
- Detailed written description (*memória descritiva*), including: essential construction characteristics of the building; the operation of the different types of services and installations, including their linkages, the horizontal and vertical circulation routes, the ventilation, air conditioning installations and other similar aspects considered, in general, of everything that is necessary to describe, for a proper understanding of the solutions presented; the categorization and classification of the proposed development; planned time period for the start and completion of the construction;
- The opinion of the residents committee if the development is to be established in an apartment building;
- Demarcation of smoking and non-smoking areas, as well as provisions for disabled accesses, facilities and equipment.

In the case of a one or two star boarding house in existing buildings, these may submit one combined set of plans showing the exterior and finishings, and the general development plan, provided that the works do not change the structure and that its simplicity allows it, but all other requirements must also be submitted in this set.

<sup>70</sup> Tourism Regulation, Article 18

*In certain aspects the above-described requirements may appear repetitive for certain types of development. However, in practice, tourism operators note that it is often preferable to submit information in the exact format requested, using the terminology of the tourism legislation, with descriptions broken down according to the categories as listed in the legislation, even if this requires repetition. It is reported that in this way the submission of the documents is less likely to be rejected on the basis of their format, because they are laid out according to the structure, and using the terminology which those who will analyse them expect.*

*Note that the final inspection of the accommodation establishment, and the approval of licensing based on this inspection, are directly guided by the documents submitted at this stage. Applicants sometimes opt to make conservative estimates of the level of development they plan to achieve in their application, since failure to comply with the plans presented may result in a complete new licensing process being required. It is essential that the minimum requirements for each type of establishment (see Annex 7.6) are demonstrably complied with in the plans submitted. Not including key information, such as room sizes, location of smoking areas and all other aspects listed as a minimum requirement for each type of accommodation, can lead to the executive project being rejected by the licensing authority.*

*Applicants with new-build projects should also take into consideration the plans submitted when applying for a DUAT, as these must be complied with, within a given time period as well, under penalty of the revocation of the provisional authorization of the DUAT. For further details about acquiring land rights please see the publication on that subject in this series, available from [www.acismoz.com](http://www.acismoz.com).*

#### **b) Prior verification of the process**

The entities responsible for the reception of the investment requests shall perform a prior and meticulous verification of the documents that must be included in the executive project, as indicated above, before submitting them to the competent authority to take a decision. This verification must also be done by the licensing authority at provincial level, whenever the Minister of Tourism is competent to take the decision.<sup>71</sup>

It is noted that the One-Stop Shops (*Balcões de Atendimento Único* - BAUs) may also receive and perform the prior verification of the documents, and should forward the process on the day of their reception to the competent authority for taking a decision.<sup>72</sup>

The applicant may be requested to correct or make up for possible deficiencies in the documents, in order to bring them in conformity with the requirements of the Tourism Regulation. In this case, the deadlines for a decision on the request are suspended.<sup>73</sup>

#### **c) Opinions on the project and request submitted**

After the executive project is submitted, the licensing authority shall request opinions from other government departments with specific competency (e.g., in the field of urban planning, sanitation, construction, engineering and architecture, fire safety, public security, the environment, cultural heritage, among other areas), which are given 4 (four) days to provide these opinions, which are binding<sup>74</sup>.

#### **d) Decision on the request submitted**

<sup>71</sup> Tourism Regulation, Article 19, paragraphs 1 and 2.

<sup>72</sup> Tourism Regulation, Article 19, paragraph 3.

<sup>73</sup> Tourism Regulation, Article 29.

<sup>74</sup> Tourism Regulation, Articles 30 and 31.

The licensing authority has 5 (five) days from the date of reception of the last one of the requested opinions, as indicated in the previous paragraph, to take a decision<sup>75</sup>.

#### **e) Term for starting construction**

Based on the date on which the applicant receives the written communication of approval of the executive project from the licensing authority and in the case of a new-build project, the applicant must start construction within 6 (six) months.

Non-compliance with this term implies the expiration of the authorisation of the execution of the project and its consequent filing, and the authority responsible for issuing the authorisation of the DUAT or special license is notified.<sup>76</sup>

*While it is not a legal requirement, applicants may opt to notify the licensing authority in writing when they begin construction, and retain a stamped and dated copy of the letter submitted.*

*It is noted that the previous regulation, approved by Decree 18/2007 of 7 August, stipulated a 1-year term to start construction for new-build projects and a 6-month term for construction in an existing building. In addition to reducing the term to start new-build construction, the Tourism Regulation makes no longer any reference to the start of construction of an already existing building.*

*According to information obtained from DINATUR during the 3 December 2014 meeting, despite this legal omission, the 6-month term has been applied, both for new-build developments and for existing buildings.*

*Construction must take place in accordance with the legal requirements for this activity. It is worth noting that both the construction itself and the construction contractor must have a license, which is to be issued in terms of the relevant legislation, and that a variety of different types of licenses may be necessary, depending on the specific situation of the enterprise in question and its location.*

*For more details about the licensing process in the construction area, please consult the manual of this series entitled "The Legal Framework for Construction in Mozambique, available at [www.acismoz.com](http://www.acismoz.com).*

#### **f) Vistoria and issuing of the alvará**

When construction is complete the applicant must request the competent licensing authority to do an inspection (*vistoria*)<sup>77</sup>.

This application is made in writing to the licensing authority, along with a written application for the issuing of a management certificate and the approval of the price lists, under penalty of the inspection being considered not requested<sup>78</sup>. The price lists must be presented in the format provided by the licensing authority (see Annex 7.3), and submitted in duplicate, one copy to be stamped and returned to the applicant<sup>79</sup>. If an establishment is re-classified, the new price lists must be communicated within five working days after the notification of the new classification<sup>80</sup>.

<sup>75</sup> Tourism Regulation, Article 31.

<sup>76</sup> Tourism Regulation, Article 32.

<sup>77</sup> Tourism Regulation, Article 33.

<sup>78</sup> Tourism Regulation, Article 207, paragraph 2.

<sup>79</sup> Tourism Regulation, Article 228.

<sup>80</sup> Tourism Regulation, Article 228, paragraph 4.

The inspection must take place within 5 (five) days of the submission of the letter requesting it<sup>81</sup>. The inspection team comprises the following members<sup>82</sup>:

- Two representatives of the licensing authority, one of them being the team leader;
- One representative of the public works and housing sector;
- One representative of the health sector;
- One representative of the administration of the national park or reserve, in the case of establishments being located in a conservation area (*note that, though the Tourism Regulation refers to parks and reserves, in the event of there being other conservation areas, this provision will be adjusted accordingly*);
- One representative of the fire brigade;
- One representative of the police force of the Republic of Mozambique and one representative of the culture sector, in the case of dance halls.

The inspection team is expected to have a good knowledge of the project itself and the relevant legislation<sup>83</sup>. The applicant or their mandated representative must be present during the inspection<sup>84</sup>.

At the end of the inspection the inspection team produces a report (*auto de vistoria*) which either approves the project or recommends corrections<sup>85</sup>. A copy of the auto is given to the applicant at the time of the inspection and the licensing authority has 5 (five) working days to issue its opinion and the applicant then has 3 (three) working days to contest any negative findings<sup>86</sup>.

If a decision is taken not to allow the establishment to open, this decision must be duly based on law and the basis must be provided in writing<sup>87</sup>. If a decision is taken to require the applicant to make modifications, the establishment will then be subject to re-inspection<sup>88</sup>. The initial alterations having been carried out, this does not preclude the identification of additional defects in the second or any subsequent inspections<sup>89</sup>.

The inspection being passed and after completion of the classification process by the competent authorities, an operating license (*alvará*) is issued, valid for an indefinite period of time<sup>90</sup>. It is noted that upon communicating the decision authorizing the commencement of operation of an establishment, the competent licensing authority shall remit the process to INATUR, which shall carry out its classification within three months after which the process is returned to the licensing authority for the purpose of approval. Only after the completion of the classification process by the competent authorities, the *alvará* for the accommodation establishment will be issued.<sup>91</sup>

*Considering that, in practice, the issuing of alvarás may take more time than what is stipulated in the law, the applicant can request a certificate from the licensing authority which demonstrates that*

<sup>81</sup> Tourism Regulation, Article 210.

<sup>82</sup> Tourism Regulation, Article 208, paragraph 1.

<sup>83</sup> Tourism Regulation, Article 209.

<sup>84</sup> Tourism Regulation, Article 208, paragraph 2.

<sup>85</sup> Tourism Regulation, Article 211, paragraphs 1 and 2.

<sup>86</sup> Tourism Regulation, Article 211, paragraphs 3 and 4.

<sup>87</sup> Tourism Regulation, Article 212.

<sup>88</sup> Tourism Regulation, Article 213.

<sup>89</sup> Tourism Regulation, Article 214.

<sup>90</sup> Tourism Regulation, Article 215, paragraph 1, and Article 216, paragraph 1.

<sup>91</sup> Tourism Regulation, Article 69, paragraph 2.

*the applicant is awaiting the issuing of the alvará, in order to pursue other proceedings he may have with other government departments.*

Any change to the data listed in the *alvará* (which include the name of the establishment, ownership, location, classification, size and capacity and types of service provided) necessitate the exchange of the *alvará* for a new, up to date one<sup>92</sup>. The *alvará* must be on public display in the establishment, and be provided to inspectors on request<sup>93</sup>. If the establishment ceases to operate the *alvará* must be returned to the issuing authority<sup>94</sup>.

*Note: there is no legal requirement to transport, or pay for the transport, or for out of office expenses of inspectors coming to inspect the establishment. In the case of transport however, in practice applicants may choose to provide this in the interest of expediting the inspection process. For any and all payments made to government officials or any payment to any government department receipts must be provided. The law requires that each government department have a bank account and payments may be made directly into that account<sup>95</sup>. Where possible it is preferable to use this system rather than to pay cash.*

#### **g) Beginning operations and operating rules**

The establishment can only begin operating after receipt of the decision authorizing its opening to the public<sup>96</sup>.

After the issuing of the *alvará*, the operator must purchase from the classifying body, the relevant plaque indicating the type of establishment and its category. This plaque must be displayed within 15 (fifteen) days of the date of receiving the *alvará*<sup>97</sup>.

Establishments may undertake more than one activity (for example, a hotel with a restaurant). In this case, if the additional activities are marketed to the public as being autonomous from the main establishment they may be subject to separate licensing under the regulations which govern the relevant activity<sup>98</sup>. In case of doubt regarding whether or not the additional activities should be considered autonomous for the purposes of licensing, the licensing authority should be consulted<sup>99</sup>.

Establishments may only use the classification which they have been awarded, and this classification must be clearly displayed on all advertising, invoices, or any other form of material available to the public<sup>100</sup>.

Establishments which are not open all the year round must inform the licensing authority by 31<sup>st</sup> May each year, of their periods of operation for the following year, unless the period is the same as in the previous year. If the operator does not file this report in time the establishment is required to operate all year, until the next deadline<sup>101</sup>.

All establishments (with the exception of private lodging for tourism purposes, country houses, agro-tourism establishments, and 2<sup>nd</sup> and 3<sup>rd</sup> class restaurants and drinking

<sup>92</sup> Tourism Regulation, Article 216, paragraph 2.

<sup>93</sup> Tourism Regulation, Article 216, paragraph 4.

<sup>94</sup> Tourism Regulation, Article 216, paragraph 3.

<sup>95</sup> Decree 30/01 of 15 October, Article 57.

<sup>96</sup> Tourism Regulation, Article 217.

<sup>97</sup> Tourism Regulation, Article 215, paragraph 2.

<sup>98</sup> Tourism Regulation, Article 218, paragraph 1.

<sup>99</sup> Tourism Regulation, Article 218, paragraph 3.

<sup>100</sup> Tourism Regulation, Article 219.

<sup>101</sup> Tourism Regulation, Article 220, paragraph 3.



establishments) must have a responsible person to ensure, among other aspects, the efficient functioning of the establishment, the friendly treatment of guests and rapid and efficient service<sup>102</sup>. The technical capacity of the designated person must be certified by the licensing authority<sup>103</sup>. This certification is applied for in writing and supported by the following documents<sup>104</sup>:

- Curriculum Vitae;
- Certified copy of a certificate of attendance of a course on tourism, hotel management or the equivalent;
- Proof of payment of the relevant fee.

All tourist accommodation establishments are considered public and may not discriminate the entry of any member of the public on the basis of colour, race, gender, ethnic origin, religion, social position or other<sup>105</sup>.

Access must be denied to any person accompanied by an animal, including the owner and manager of the establishment.<sup>106</sup>

The entrance of minors under the age of eighteen in tourism establishments and dance halls is prohibited, except in the first case when they are accompanied by an authorized person.<sup>107</sup>

In addition, access may be denied in cases of<sup>108</sup>:

- drunkenness or other forms of intoxication;
- non-observance of the norms of hygiene, morality, coexistence or public order.

A person may be asked to leave on the following grounds<sup>109</sup>:

- Not purchasing or consuming the items or services offered by the establishment;
- Any action which risks safety or public order.

An establishment may apply to the licensing authority to reserve the right of admission. This may be done based on the need to attract a certain professional class, or market segment, or other criteria found by the licensing authority to have a sound basis<sup>110</sup>. If this right is granted by the relevant authority it must be clearly displayed on a sign at the entrance to the establishment<sup>111</sup>. If an establishment holds specific events access to these may be made conditional as long as this fact has been duly advertised to the public<sup>112</sup>.

Food or drink not purchased on the premises may only be consumed with permission from the establishment. A charge may be levied for permission<sup>113</sup>.

<sup>102</sup> Tourism Regulation, Article 221, paragraph 1.

<sup>103</sup> Tourism Regulation, Article 221, paragraph 2.

<sup>104</sup> Tourism Regulation, Article 221, paragraph 2.

<sup>105</sup> Tourism Regulation, Article 222, paragraph 1.

<sup>106</sup> Tourism Regulation, Article 223, paragraph 1.

<sup>107</sup> Tourism Regulation, Article 225, in conjunction with Law 6/99 of 2 February (see Section 3.4 below).

<sup>108</sup> Tourism Regulation, Article 222, paragraph 2.

<sup>109</sup> Tourism Regulation, Article 222, paragraph 3.

<sup>110</sup> Tourism Regulation, Article 224.

<sup>111</sup> Tourism Regulation, Article 224, paragraph 2.

<sup>112</sup> Tourism Regulation, Article 224, paragraph 2.

<sup>113</sup> Tourism Regulation, Article 227.

All prices must be determined and practiced in the national currency<sup>114</sup>. Prices must be clearly displayed, along with the type and classification of establishment and must include the price of lodging only and of full board (where applicable)<sup>115</sup>. The same information must be available on price lists given to clients in the restaurant of an accommodation establishment, where relevant<sup>116</sup>. Establishments are not permitted to charge prices higher than those in the price table submitted<sup>117</sup>.

Any name may be chosen for an establishment, as long as that name is not misleading, i.e., it shall not include expressions that do not correspond to the services rendered by it or that mislead their classification. Establishments with names in a foreign language must provide an official translation of the name into Portuguese, along with their various applications<sup>118</sup>.

#### **h) Time limits for decision-making in the licensing process**

The Tourism Regulation provides some time limits for responses to be given by the entities responsible for the licensing process. It is noted that the calculation of the time limit is suspended whenever it is necessary to ask for additional information from the applicant, and this limit does not include the time required to gather any additional information or request any opinions deemed necessary (note, for example, as referred to above, that INATUR has 3 (three) months for the classification of the establishment)<sup>119</sup>.

The technical approval of the request shall be concluded within 5 (five) working days from the date of receipt of the documents by the competent authority. The competent licensing authority shall decide about the initial request submitted within 2 (two) working days after the start of the process, and then a further 3 (three) days from the date on which the decision is taken to notify the applicant<sup>120</sup>.

The Tourism Regulation requires that any documents submitted as part of a licensing process be receipted, and that the receipt provided include the date and a full list of items submitted<sup>121</sup>. In addition the applicant may, at any stage, request information as to the progress of their application and request a written certificate indicating the stage reached, which may then be used in respect of other authorities<sup>122</sup>.

#### **2.1.2.3. Requirements relating to accommodation establishments**

The Tourism Regulation requires that the quality of service provided in an accommodation establishment must be in accordance with its classification, and with the national tourism quality standards<sup>123</sup>.

*The national tourism quality standards have not yet been defined. According to information obtained from DINATUR during the 3 December 2014 meeting, the national tourism quality standards are being prepared by the National Quality Standards Institute (Instituto Nacional de Normalização de Qualidade - "INNOQ").<sup>124</sup> Therefore, at this moment one should consider the general standards that apply to each tourism development as a result of its classification under the Tourism Regulation.*

<sup>114</sup> Tourism Regulation, Article 235.

<sup>115</sup> Tourism Regulation, Article 234, paragraph 1.

<sup>116</sup> Tourism Regulation, Article 234, paragraph 2.

<sup>117</sup> Tourism Regulation, Article 232.

<sup>118</sup> Tourism Regulation, Article 6.

<sup>119</sup> Tourism Regulation, Article 16, paragraph 4, and Article 29, paragraph 2.

<sup>120</sup> Tourism Regulation, Article 16.

<sup>121</sup> Tourism Regulation, Article 34, paragraph 1.

<sup>122</sup> Tourism Regulation, Article 34, paragraph 2.

<sup>123</sup> Tourism Regulation, Article 236.

<sup>124</sup> For the INNOQ, visit <http://qualidade.co.mz/o-innoq/>.

In general, accommodation establishments shall satisfy, among others, the following requirements<sup>125</sup>:

- have permanent water and electricity and have a telephone connected to the general network for the use of guests, except where these utilities are not available;
- sanitary facilities comprising: toilet, comprising a lavatory and a washbasin; shower, comprising a shower and a washbasin; simple bathroom, comprising a shower with a cubicle, a washbasin and a lavatory; complete bathroom, comprising a bath with shower, a washbasin and a lavatory; deluxe bathroom, comprising a Jacuzzi (optional) with shower, a cubicle, washbasins and a lavatory;
- the shower and the bathroom shall have permanent hot and cold running water;
- have natural, direct or artificial ventilation, with continuous renewal of air;
- in four and five star tourism enterprises, most of the surface of the recreational spaces and dining-halls shall be coated with a good-quality wall-to-wall carpet or rugs, allowing, however, other solutions, provided that they guarantee the same level of comfort;
- the halls where music for dancing or for a concert is offered, shall be acoustically insulated;
- all rooms shall have a window or balcony leading directly to the outside;
- all rooms shall at least have: a single or double bed or two single beds with the following minimum sizes; single bed of at least 0.9 m x 1.9 m; double bed of at least 1.4 m x 1.9 m; one or two bedside tables; a bench or chair and a small table; a cupboard with drawers or a wardrobe and a sufficient number of hangers; bed mats, according to the number of occupiers, unless the room is completely carpeted; a bell next to the bedside table to call the worker on duty, unless the use of the telephone is foreseen to this end; a safe-deposit box to keep guests' valuables, either at the reception or in each room; and a bar fridge.

In addition to the above, note that the Tourism Regulation also stipulates a series of additional standards to be considered for the services, among which the following:

- The reception of the establishment must be situated near the entrance and must provide clients with administrative services and information and must be open 24 hours a day<sup>126</sup>;
- Rooms must be cleaned and made up daily, at the end of the morning and at night, and bed linen and towels must always be changed when they are dirty and when guests leave the establishment<sup>127</sup>;
- Meals must be provided in accordance with the classification of the establishment<sup>128</sup>. Meals must be served according to the timetable set by the establishment, with each meal time being at least two and a half hours<sup>129</sup>;
- In all types of establishment which are required to serve breakfast, at least two breakfast menus must be provided for the guests' choice<sup>130</sup>. Breakfast must be served in the room if the guest requests this and an additional charge may be levied for the service<sup>131</sup>. All accommodation establishments must provide a free safety deposit service for guests' money and other valuables, and reception staff must

<sup>125</sup> Tourism Regulation, Articles 35 to 65.

<sup>126</sup> Tourism Regulation, Article 237.

<sup>127</sup> Tourism Regulation, Article 238.

<sup>128</sup> Tourism Regulation, Article 239.

<sup>129</sup> Tourism Regulation, Article 241.

<sup>130</sup> Tourism Regulation, Article 240.

<sup>131</sup> Tourism Regulation, Article 240, paragraph 2.

make it absolutely clear to guests that the establishment accepts no responsibility for any items not deposited with the safety deposit service<sup>132</sup>;

- All accommodation establishments must provide a washing and ironing service for guests, though this service may be outsourced. Items must be returned to guests within a maximum of forty-eight hours<sup>133</sup>;
- Whenever the type of service provided so dictates, employees must wear the appropriate type of uniform for the work they do. Those dealing with food must have their heads covered and nails must be kept short and unpainted. All employees must have identity badges, must treat guests with courtesy and must be clean and tidy<sup>134</sup>.
- In all accommodation establishments those in charge of reception, of the area serving food and drinks, and the telephone operators, must at least speak Portuguese and English<sup>135</sup>;
- In all accommodation establishments reception services must be performed by properly trained staff, and in three-star hotels or above reception staff must be differentiated for each type of service provided<sup>136</sup>.

There is a series of additional rules to be considered regarding the type of services to be provided, as well as the food and drinks to be offered in the different establishments.

### 2.1.3. *Competences, Licensing Process and Requirements relating to Drinking Establishments, Dining Establishments, Dance Halls and Similar Establishments*

#### 2.1.3.1. **Competences relating to drinking establishments, dining establishments, dance halls and similar establishments**

As mentioned in Section 2.1.2 above, the type of establishment intended and its category determine the competent authority for licensing its opening, alteration, enlargement, relocation, closure or suspension of activity. In the case of drinking establishments, dining establishments and dance halls, the competency for licensing will be as follows:

- a) Provincial Governor or Mayor (in urban areas): deluxe and 1<sup>st</sup> class dining and drinking establishments and dance halls and pizzerias; and
- b) District Administrator (in rural areas not covered by the municipalization): 2<sup>nd</sup> and 3<sup>rd</sup> class dining and drinking establishments and dance halls.

The drinking establishments, dining establishments and dance halls may be part of a tourism development, or may be independent. Establishments providing tourist accommodation as well as food, drinks or dancing, should be aware that under some circumstances, the restaurant, bar, etc., require a separate license<sup>137</sup>.

In addition, establishments which undertake a variety of functions (for example a cake shop which has a bakery and which also sells previously made products such as candies) may also be subject to additional licensing by the Ministry of Industry & Commerce.

<sup>132</sup> Tourism Regulation, Article 242.

<sup>133</sup> Tourism Regulation, Article 243.

<sup>134</sup> Tourism Regulation, Article 244.

<sup>135</sup> Tourism Regulation, Article 245.

<sup>136</sup> Tourism Regulation, Article 246.

<sup>137</sup> Tourism Regulation, Article 218.

*In cases of doubt readers are encouraged to seek specialized assistance and a formal decision in writing on their particular case from any ministry or department which is considered to have licensing authority for any one of the activities being undertaken.*

### **2.1.3.2. Licensing Process for drinking establishments, dining establishments, dance halls and similar establishments**

Prior to commencing an activity the operator is required to decide which type or types of service will be provided in the intended establishment. This decision then determines in considerable detail the layout and operation of the establishment. The specifications for each type and category of establishment are provided in Annexes to the Tourism Regulation.

The procedures for applying for the issuing of an *alvará* for a drinking establishment, dining establishments or dance hall are the same as those followed for accommodation establishments (see Section 2.1.2 above). Overall the application process is similar, for each type and category of establishment, varying depending on whether or not the project is a new-build or is taking place in a previously existing structure/building. The procedures described are therefore generic. Where these differ for a given type or category of establishment this is indicated below.

As mentioned above, the application process begins with an initial request. Following its approval the applicant submits a more detailed executive project. Following the approval of the executive project, the applicant must start the construction of its drinking establishment, dining establishment or dance hall within 6 (six) months from the date of receipt of the communication of the decision, in the case of the construction of a new building.

In addition, upon communicating the decision authorizing the commencement of operation of an establishment, the competent licensing authority shall remit the process to INATUR, which shall carry out its classification within 3 (three) months after which the process is returned to the licensing authority for the purpose of approval.

The construction having been completed, the applicant must request an inspection (*vistoria*), simultaneously with an application for issuing a management certificate, the approval of the establishment's price lists, and the classification of the establishment<sup>138</sup>.

The inspection having been completed successfully and after the completion of the classification process by the competent authorities, the applicant is then issued an operating license (*alvará*).

Drinking establishments, dining establishments and dance halls can only open to the public after receipt of the decision authorizing its opening to the public<sup>139</sup>.

It is noted that the remaining rules relating to inspection and commencement of operation of the establishment referred to in Section 2.1.2.2 above also apply and under the same terms to drinking establishments, dining establishments and dance halls.

<sup>138</sup> Tourism Regulation, Articles 207-117.

<sup>139</sup> Tourism Regulation, Article 217.

### 2.1.3.3. Requirements relating to dining establishments, drinking establishments and dance halls

All establishments must reach minimum levels of quality and service depending on their classification. In dining and drinking establishments areas used by customers must, in any establishment, as a minimum have the following<sup>140</sup>:

- Separate client and service entrance;
- Security service;
- Health and hygienic conditions;
- Cloak room next to the entrance;
- Private staircase when the establishment is on more than one level;
- Telephone;
- Air conditioning;
- Toilets with good quality equipment, and hot and cold running water;
- Appropriately signalled emergency exits;
- Smoke extraction;
- Fire extinguishers;
- Handicapped access.

While the service area must have<sup>141</sup>:

- Service entrance;
- Kitchen-pantry adequate to the type of service provided, with modern, efficient equipment;
- Adequate refrigeration;
- Health and hygienic conditions;
- Storage areas separated by type of product;
- Cloakroom and toilets for both male and female workers.

Certain requirements may be dispensed with at the discretion of the licensing authority for establishments situated in historic premises.

It is noted that, according to the classification of the dining or drinking establishment as deluxe, 1<sup>st</sup> class, 2<sup>nd</sup> class or 3<sup>rd</sup> class, additional requirements will apply under the terms of the Tourism Regulation.<sup>142</sup>

In dance halls a number of generic minimum requirements apply, as follows<sup>143</sup>:

- Entrance way, entrance hall, and cloakroom;
- Private entrance if on more than one level;
- Areas for dancing;
- Kitchen-pantry appropriate to the type of service to be provided and isolated from areas frequented by customers;
- Storage area;
- Cloakroom for staff;
- Indicated emergency exits

<sup>140</sup> Tourism Regulation, Article 174, paragraph 3.

<sup>141</sup> Tourism Regulation, Article 174, paragraph 5.

<sup>142</sup> Tourism Regulation, Articles 177 – 180.

<sup>143</sup> Tourism Regulation, Article 201.

- Smoke extraction system;
- Fire extinguishers.

It is noted that, according to the classification of the dance hall as deluxe, 1<sup>st</sup> class, 2<sup>nd</sup> class or 3<sup>rd</sup> class, additional requirements will apply under the terms of the Tourism Regulation.<sup>144</sup>

#### 2.1.4. National Registry of Tourism Enterprises

Tourism enterprises, dining and drinking establishments and dance halls are subject to registration with the National Registry of Tourism Enterprises (*Registo Nacional dos Empreendimentos Turísticos*, hereafter **RNET**), in which, among others, the following data will be included: name, classification, prices, capacity and location of the establishment, identification of the operator, periods of operation and other relevant information<sup>145</sup>.

The Ministry of Tourism makes the RNET available on its website, with an updated list of the tourism enterprises, dining and drinking establishments and dance halls with a valid operating license, including the above-indicated information.

For the purpose of this registration, the following data must be provided:

- Company name, subscribed and paid up equity capital, quotaholders, head office and possible agencies, shares or financial holdings in other companies;
- Copy of the definitive commercial registration certificate and the Official Gazette (*Boletim da República*) in which the articles of association are published;
- Identity and qualifications of the managers;
- Operator of the establishment and its legal nature; and
- Owner of the establishment.

The initial registration of tourism establishment is done by the competent licensing authority<sup>146</sup>. However, any alteration of the data included in the registration must be communicated by the tourism operator within 10 (ten) days after its occurrence<sup>147</sup>.

In addition to the tourism establishment itself, the following acts are also subject to registration<sup>148</sup>:

- a) Transfer of the property of the establishment (*Trespasse*);
- b) Assignment of the exploitation;
- c) Suspension of the activity;
- d) Closure;
- e) Revocation or expiry of the operating license (*alvará*);
- f) Alteration of the partnership agreement (*pacto social*) or of any information contained in the operating license.

Any complaints, sanctions, and supervision and inspection reports are also listed on the register by the licensing entity.

<sup>144</sup> Tourism Regulation, Articles 202 – 204.

<sup>145</sup> Tourism Regulation, Article 77.

<sup>146</sup> Tourism Regulation, Article 78, paragraph 2.

<sup>147</sup> Tourism Regulation, Article 77, paragraph 3.

<sup>148</sup> Tourism Regulation, Article 79.

The tourism establishments, dining and drinking establishments and dance halls must report monthly to the licensing authority about their number of guests, and this data must be broken down by nationality, purpose of the trip, country of origin and type of transport used, and its subsequent submission to the RNET<sup>149</sup>. This information will be treated confidentially by the licensing authority and for internal use only<sup>150</sup>. This does not preclude the need to report to other departments such as immigration (see section 3.6 below) and the National Statistics Institute<sup>151</sup>.

## 2.2. PERIODIC OCCUPATION REGULATION

In August 2007, through Decree 39/2007 of 24 August, approving the **Periodic Occupation Regulation** (*Regulamento de Habitação Periódica*)<sup>152</sup>, Mozambique introduced provisions relating to “periodic occupation”, i.e., concepts such as timeshare and fractional ownership, as well as the long-term use of business property such as office parks.

In Mozambique all land is the property of the State, and can be used for a specified period based on the right to use and benefit from the land (*Direito de Uso e Aproveitamento de Terra – DUAT*), renewable. Nevertheless, the State recognizes and protects the “ownership” of property legitimately built on land, determining that any expropriation can only take place for reasons of public interest and subject to fair compensation.

The Periodic Occupation Regulation establishes the real rights of those using property constructed on land for which the DUAT belongs to a third party.

*Property law is more complex than the nature of this manual allows for. What is provided below is a brief description of the law as it pertains specifically to periodic occupation, this is by no means a comprehensive overview of property-related legislation in Mozambique and in case of doubt, or for more detailed information readers would do well to consult specialists in this matter.*

*In addition to understanding the requirements for periodic occupation, readers interested in engaging in this sector are encouraged to ensure that they also have a good understanding of land and company-related legislation since these aspects are also key to understanding what is legal and what is not and to have a more complete framework of the requirements for beginning investment in the country. In case of doubt we encourage readers to seek specialized legal counsel.*

*Periodic occupation is an area in which the Government, Mozambican land specialists and, increasingly, tourism operators, are expressing concern about activities which have been or are taking place. However as a concept, periodic occupation also offers many opportunities for tourism development in Mozambique, provided that the legislation is followed correctly.*

The Periodic Occupation Regulation establishes the legal regime for the constitution, exercise, transfer and extinction of periodic occupation rights and it also defines the norms for licensing establishments (both tourism and commercial property) operating within this regime<sup>153</sup>.

<sup>149</sup> Tourism Regulation, Article 286, paragraphs 1 and 2.

<sup>150</sup> Tourism Regulation, Article 286, paragraph 3.

<sup>151</sup> Tourism Regulation, Article 286, paragraph 1.

<sup>152</sup> Referred to as Timeshare Regulations in the translation of the legislation available at [www.acismoz.com](http://www.acismoz.com)

<sup>153</sup> Periodic Occupation Regulation, Article 2, paragraph 1.



The rights established under the regulation are<sup>154</sup>:

- a) **Real periodic occupation right** – “having joint use of property that allows the staggered or fixed enjoyment of the holiday premises or second home”,<sup>155</sup>
- b) **Holiday accommodation right** – “consists of the use of accommodation in a tourism enterprise for dwelling purposes for one or more periods each year, normally of fixed duration, against the payment of a price”,<sup>156</sup>
- c) **Fractional ownership** – “consists of the acquisition of a real right in a share of a given immovable property that is part of a tourist or property development, together with the moveable goods that it contains, as well as facilities and services related to the common areas of the development, subject to a fixed interval calendar laid down in the contract and in the regulations on usage and services”.<sup>157</sup>

The Regulation also establishes the legal regime for **residential tourism** – “tourism based on property or tourism investment aimed at providing residential/living accommodation on a permanent basis or for periods of fixed duration in tourism interest zones.”<sup>158</sup>

The Periodic Occupation Regulation therefore applies to all property or accommodation used for periodic occupation or residential tourism, and subjectively to all those involved in the ownership, promotion, commercialization of such properties as well as to those who have the rights listed above<sup>159</sup>.

The holder of a periodic occupation right has the following capacities<sup>160</sup>:

- Use of the accommodation for the relevant period, or of access to accommodation of the same or higher standard nearby if for some unforeseen reason their own accommodation cannot be used;
- Use of common services and facilities, and services provided by the owner of the periodic ownership investment;
- Assign these rights to others.

The holder and users of a right to periodic occupation are expected to behave with the care of an ordinary prudent person and within the norms laid out in the rules, or constitution of the investment and within the laws of Mozambique, both in the common areas of the property and in the private areas<sup>161</sup>.

The rights acquired under promissory and/or definitive contracts signed in the process of acquisition of periodic occupation rights are binding and any clause in such contracts which excludes or limits the agreed responsibilities in said contracts will be considered null<sup>162</sup>.

Up next and before proceeding with the discussion on the specifics as they apply to each one of the types of rights listed above, we will first describe the general requirements applicable to all periodic occupation activities.

<sup>154</sup> Periodic Occupation Regulation, Article 2, paragraph 2.

<sup>155</sup> Periodic Occupation Regulation, Article 1, clause e)

<sup>156</sup> Periodic Occupation Regulation, Article 1, clause g).

<sup>157</sup> Periodic Occupation Regulation, Article 1, clause h).

<sup>158</sup> Periodic Occupation Regulation, Article 1, clause n).

<sup>159</sup> Periodic Occupation Regulation, Article 3.

<sup>160</sup> Periodic Occupation Regulation, Article 4, paragraph 1.

<sup>161</sup> Periodic Occupation Regulation, Article 4, paragraph 2.

<sup>162</sup> Periodic Occupation Regulation, Article 6.

### 2.2.1. *General Conditions*

The following general conditions apply to all types of periodic occupation<sup>163</sup>:

- Individual units must be part of a larger investment duly licensed under the Periodic Occupation Regulation;
- The tourism or property enterprises operated on a periodic occupation basis must be duly registered;
- Units must be distinct and independent with separate entrances either into communal areas or onto public access;
- Except in the case of apartment-hotels and tourism apartments all the units in one investment must be for the purpose of periodic occupation;
- The accommodation units of apartment-hotels and tourist apartments must be adjoining and functionally self-contained;
- Units must be furnished and equipped as appropriate;
- Management of the investment if ceded to a third party, must only be ceded to one management operator, and in all cases each investment must be run by one management body;

In addition, an information document must be made available for free which must include<sup>164</sup>:

- Name, nationality and residence of the owner of the investment (in the case of a natural person);
- Name, nationality and residence of the representative of the entity owning the investment (in the case of a legal person);
- Proof of publication of the articles of association of the legal person in the Official Gazette (*BR*);
- Identification of the enterprise including the registration number of the building or buildings in the Real Estate Registry, its location, status of DUAT application including order numbers and validity dates of documents issued; guarantees regarding the completion of the development including methods for re-payment of advances given if the development is not completed;
- The establishment, equipment and services a buyer can expect to have access to, as well as the price per unit;
- Information on how the investment will be managed;
- Costs of transfer of rights, which the buyer will be responsible for;
- Information about rights and time periods in respect of termination of contract, along with contacts of those responsible for dealing with this issue;
- License number of the investment if already licensed;
- Situation with regard to phases of construction, including planned completion dates if the development is under construction.

The buyer must be advised of any alteration to that contained in the information document, and such alterations must be specifically included in the contract, and alterations are only permitted if outside the control of the seller or if based on mutual agreement between the parties<sup>165</sup>.

<sup>163</sup> Periodic Occupation Regulation, Article 7, paragraph 1.

<sup>164</sup> Periodic Occupation Regulation, Article 8.

<sup>165</sup> Periodic Occupation Regulation, Article 8, paragraphs 4 and 5.

### 2.2.2. Licensing and Registration

All periodic occupation premises must be registered with MITUR, and will in exchange receive a certificate demonstrating registration. Applications for registration must include the details contained in the information document (see under a) of this Section) and proof of financial guarantee (see Section 2.2.3 below)<sup>166</sup>.

*In certain aspects the requirements described may appear repetitive for certain types of development. However in practice operators note that it is often preferable to submit information in the exact format requested, using the terminology of the tourism legislation, with descriptions broken down according to the categories as listed in the legislation, even if this requires repetition. In this way, it is reported, the submission is less likely to be rejected on the basis of its format, because it is laid out according to the structure, and using the terminology which those who will analyse it expect. The procedures for licensing, alteration, enlargement, change of location, closure or suspension of periodic occupation establishments generally follow the same procedure. Below we refer to licensing, but the same procedures are applicable in any alteration to the establishment. Note that any significant changes must be reported to the relevant authority and may be subject to the requirement to complete a new application process.*

Aside from those aspects of the authorisation and registration of periodic occupation activities which require the intervention of other departments (such as the Notary and Real Estate Registry, as described below), licensing, inspection and registration of these activities falls within the competency of MITUR and its subordinate bodies<sup>167</sup>.

Licensing is undertaken in three phases:

- Prior information;
- Authorisation of the establishment; and
- Licensing of operation.

#### **a) Request for prior information**

The investor intending to develop a property with a view to periodic occupation must first request prior information from MITUR regarding the suitability of the proposed development.

This request is made by written application submitted in triplicate and accompanied by the following documents<sup>168</sup>:

- A written description of the project including: physical characteristics of the area; geographic and hydrographical situation; vegetation; integration of planned development from architectonic point of view; sketches of the proposed buildings; characteristics of the area including indicating that there are no polluting industries or degraded buildings in the proposed area; size of area; indication if it is in a protected area; proposed classification if it is partially a tourism establishment; water, electrical and drainage plans; basis of the relevance of the project from a tourism point of view;
- Plans and maps to 1:1000 scale of the area and proposed development;
- Architectural plans in accordance with the various legal requirements;
- Copies of the Information Document.

<sup>166</sup> Decree 39/2007 of 24 August, Article 10

<sup>167</sup> Periodic Occupation Regulation, Article 53.

<sup>168</sup> Periodic Occupation Regulation, Article 57.

Alternatively the applicant may submit the requirements for the prior information and the application for authorisation together at the time of application for authorisation<sup>169</sup>.

If the applicant submits a request for prior information MITUR, will consult with relevant local authorities and must provide a response within 20 (twenty) days of having received the opinion of the local authorities<sup>170</sup>. Applications may be rejected if the planned enterprise is close to noisy or polluting industry, does not have suitable access roads, does not have sufficient hospital or medical services close to it, or when it is close to degraded or damaged buildings<sup>171</sup>. Before rejecting an application MITUR gives the applicant 8 (eight) days to present a written basis for overturning the rejection and this is taken into account and a decision is provided within 15 (fifteen) days<sup>172</sup>.

#### **b) Application for the establishment of the development**

Application for authorisation for the establishment of the development is then submitted in writing, within 15 (fifteen) days of having received the outcome of the request for prior information<sup>173</sup>, and unless an extension to this time is requested if the application is not submitted, the prior information application is considered to have expired<sup>174</sup>.

The application for authorisation is made by means of a letter with the signature duly notarised, which includes the following general requirements<sup>175</sup>:

- Name, nationality & residence (natural person);
- Name, nationality & residence of representative (legal person) and the Official Gazette in which the articles of association (*estatutos*) are published or certified copies of the same;
- Identification of the property including its location and registration number with the Real Estate Registry;
- DUAT number, or indication of status in respect of DUAT application and proof of registration of either provisional or definitive DUAT with the Real Estate Registry;
- Current license in case of expansion or change of use of existing tourism establishment;
- Authorisation from any other authorities (municipal, maritime etc.);
- Executive project which, differs slightly depending on if it is in a new-build or an existing construction but in essence includes the following: plans to scale 1:1000 or 1:2000 showing the overall construction to be undertaken; plans to scale 1:1000 showing the buildings and their different floors in sufficient detail to provide an understanding of the layout, type of building planned, circulation routes and equipment and fire safety responses; plans of longitudinal and transversal transects permitting understanding of what is to be built, with at least one plan showing a transect along vertical access routes; sketches to scale 1:100 of the exterior of the buildings showing the finishings; plans showing drainage, including solutions for dealing with domestic and rainwater drainage, road access and electrical drawings; declaration of the architect or engineer in charge of the works that the provisions

<sup>169</sup> Periodic Occupation Regulation, Article 58.

<sup>170</sup> Periodic Occupation Regulation, Article 60, paragraph 1.

<sup>171</sup> Periodic Occupation Regulation, Article 60, paragraph 2.

<sup>172</sup> Periodic Occupation Regulation, Article 61.

<sup>173</sup> Periodic Occupation Regulation, Article 63, paragraph 1.

<sup>174</sup> Periodic Occupation Regulation, Article 63, paragraph 7.

<sup>175</sup> Periodic Occupation Regulation, Article 63, paragraph 2, and Articles 64 to 67.

of the Regulation of Urban Buildings were observed, if the development is situated in urban areas or covered by urban development plans, and that the health and safety requirements were complied with in the development of the project;

- Written description and justification (*memória descritiva e justificativa*) of the project including: physical characteristics of the area, geographical and hydrographical orientation, and types of vegetation; integration of the proposed development in the local area from an architectonic and landscape point of view; general description of the composition and essential characteristics of the construction; operation of the different types of services and buildings including linkages, circulation routes, ventilation; categorization and classification of the proposed development; planned time period for start of construction; guest capacity; investment value; plans and floor space allocated to each part of the development; proposed ventilation and air conditioning systems; time periods for start and conclusion of construction.
- Information Document;
- Proof of payment of guarantee;
- Approval of prior information application (where relevant);
- Environmental impact opinion issued by the Ministry for Environmental Affairs (MICOA);
- Number of workers to be employed;
- Investment value;
- Proof of payment of fee for the application.

In the case of a project relating to an existing construction/building, a description of the basic characteristics of the building must be added, as well as the time periods for start and conclusion of construction and the time period for the commencement of operation.<sup>176</sup>

In the case of an application for authorisation for the establishment of a property or tourist development in a *real periodic occupation right* regime, the following **specific requirements** must be added to the above-indicated general requirements:<sup>177</sup>

- Public deed demonstrating the ownership structure and that periodic occupation can be undertaken on the property;
- Indication of any mortgages or other onuses on the property;
- Indication of how the periodic occupation structure will be established, and proof from the Real Estate Registry that the parts of the property are registered appropriately to permit periodic occupation rights to be constituted;
- Number of units to be constituted as periodic occupation rights, and number of overall units in the development;
- Number and type of communal and touristic facilities including the equipment to be offered for tourism activities;
- Number of rights to be constituted and the type, duration and limit of each;
- Relative value of each right, based on a standard unit value;
- Mechanism for determining the levy or fee to be charged and its updating, as well as the percentage of this fee to be used for management remuneration and the percentage allocated to the local communities;

<sup>176</sup> Periodic Occupation Regulation, Article 64, paragraph 3.

<sup>177</sup> Periodic Occupation Regulation, Article 65.

- Start and end date of each period of time for the rights;
- Rights of the right-holders in respect of communal areas and their obligations relating to the exercise of their rights;
- Rights and responsibilities of the owner and managers.

In the case of an application for authorisation for the establishment of a property or tourist development on a *real tourism occupation right* basis, the following **specific requirements** must be added to the above-indicated general requirements:<sup>178</sup>

- A document containing the necessary adaptations, the above-indicated specific requirements for developments on a real periodic occupation right basis;
- If the applicant is not the owner of the house or development, a document that entitles the applicant to create tourist accommodation rights.

In the case of an application for authorisation for the establishment of a property or tourist development on a *fractional ownership or residential tourism* basis, the specific requirements for real periodic occupation rights and real tourism occupation rights must be added to the above-indicated general requirements, with the necessary adaptations.<sup>179</sup>

If the applicant opts to submit the application for prior information together with the application for authorisation, both sets of documents must be submitted together<sup>180</sup>.

The development of investments in conservation areas is further regulated by the Tourism Regulation (see Section 2.1 above)<sup>181</sup>.

MITUR may request changes and corrections to the submission and must then make a decision within 20 (twenty days) of having received the final, complete submission<sup>182</sup>. Rejection of the application must include a legal basis, and may be in accordance with a number of possible reasons listed in the Periodic Occupation Regulation<sup>183</sup>.

### c) Application for inspection and operating license for the development

If the application for authorisation is successful then the applicant can construct or prepare the development. This being complete the applicant then requests a license to begin operating<sup>184</sup>. The application is made in writing to MITUR and within 10 (ten) days of receipt of this an inspection (*vistoria*) takes place<sup>185</sup>.

*Note: there is no legal requirement to transport, or pay for the transport, or for out of office expenses of inspectors coming to inspect the establishment. In the case of transport however, in practice applicants may choose to provide this in the interest of expediting the inspection process. For any and all payments made to government officials and any payment to any government department receipts must be provided. The law requires that each government department have a bank account and payments may be made directly*

<sup>178</sup> Periodic Occupation Regulation, Article 66.

<sup>179</sup> Periodic Occupation Regulation, Article 67.

<sup>180</sup> Periodic Occupation Regulation, Article 58

<sup>181</sup> Periodic Occupation Regulation, Article 68

<sup>182</sup> Periodic Occupation Regulation, Articles 69 and 70

<sup>183</sup> Periodic Occupation Regulation, Article 71

<sup>184</sup> Periodic Occupation Regulation, Articles 72 – 80

<sup>185</sup> Periodic Occupation Regulation, Articles 73 and 74

*into that account<sup>186</sup>. Where possible it is preferable to use this system rather than to pay cash.*

The inspection team comprises two representatives from the tourism sector, one from health, one from the fire brigade, and one from the national park or reserve (where relevant)<sup>187</sup>. A report (*auto de vistoria*) is prepared and the applicant has 10 (ten) days to respond to any negative findings<sup>188</sup>. If alterations are required a new *vistoria* must be undertaken to confirm that these have taken place<sup>189</sup>.

Based on a favourable *auto de vistoria* the tourism inspectors' superior must give a decision within 5 (five) working days. If the decision is favourable, MITUR must then issue an operating license (*alvará*) within 8 (eight) days<sup>190</sup>. If the time periods for the *vistoria* to take place, or for communication of the outcome of the *vistoria* (15 days) elapse without communication being received, tacit approval is assumed to have been given and the *alvará* must be issued<sup>191</sup>.

The *alvará* is valid for an indeterminate period<sup>192</sup>. However it expires if operations do not begin within 90 (ninety) days of it being issued, if the establishment closes for more than 90 (ninety) days (except in the case of building work), if tourism activities are no longer undertaken on the premises or if the establishment loses its classification<sup>193</sup>.

### 2.2.3. *Financial guarantees*

The owner of a periodic occupation investment must put up financial guarantees of between 500 and 1,500 times the minimum wage to MITUR<sup>194</sup>. This guarantee, which can take the form of a bank guarantee or direct deposit or other form of guarantee permitted by the law<sup>195</sup>, is to ensure<sup>196</sup>:

- That buyers can assume their rights on the date indicated in the contract;
- No onus or mortgage can be imputable to the buyer;
- The full return of all advances paid, taking into account inflation, if the enterprise does not open on the date indicated or anything paid up until the date of termination of the contract.

*According to information obtained from DINATUR during the 3 December 2014 meeting, since the sector of economic activity to be considered for the purpose of determining the minimum wage has not been specified, the minimum wage in the civil service will be considered.*

Transfer of periodic occupation rights includes the transfer of rights under the guarantee put forward regardless of whether or not the investment has opened to the public yet<sup>197</sup>.

<sup>186</sup> Decree 30/2001 of 15 October, Article 57.

<sup>187</sup> Periodic Occupation Regulation, Article 75

<sup>188</sup> Periodic Occupation Regulation, Articles 75 - 77

<sup>189</sup> Periodic Occupation Regulation, Article 77

<sup>190</sup> Periodic Occupation Regulation, Article 78.

<sup>191</sup> Periodic Occupation Regulation, Article 78, paragraph 2.

<sup>192</sup> Periodic Occupation Regulation, Article 78, paragraph 3.

<sup>193</sup> Periodic Occupation Regulation, Article 80.

<sup>194</sup> Periodic Occupation Regulation, Article 9.

<sup>195</sup> Periodic Occupation Regulation, Article 9, paragraph 2.

<sup>196</sup> Periodic Occupation Regulation, Article 9, paragraph 1.

<sup>197</sup> Periodic Occupation Regulation, Article 9, paragraph 4.

Buyers wanting to action the guarantee must apply to MITUR in writing providing details of all the alleged facts of the case and demonstrating their right and MITUR will then provide a decision within 15 (fifteen) days from the date of the application being received<sup>198</sup>. In the event that the guarantee is triggered, MITUR advises the investor to reconstitute the triggered value within 30 (thirty) days<sup>199</sup>.

Through Ministerial Diploma 244/2009 of 4 November, the **Table of Financial Guarantees**, to be provided for periodic occupation developments, was approved. The amounts stipulated may be adjusted, if justified by the dynamics of the economy, as the diploma in question determines. It is noted that the amount to be paid varies according to the number of beds planned for the enterprise, namely:

Beds	2 to 50	51 to 100	101 to 125	126 to 150	+150
Value	500 minimum wages	750 minimum wages	1000 minimum wages	1250 minimum wages	1500 minimum wages

#### 2.2.4. Commercialization and Advertisement

Any advertisement for the commercialization of periodic occupation rights must include detailed reference to the information document, which includes details of the investment and how it operates<sup>200</sup>, and must include the fact that the information document is available for free, as well as explaining how it can be obtained<sup>201</sup>.

Concrete, objective information contained in advertisement material is considered part of any contract for periodic occupation rights signed subsequently, and makes null any contractual clause contrary to the information contained in the advertisement material<sup>202</sup>.

Advertisement material, contracts and other documents must not use the term “owner” or any other term likely to cause confusion over the exact nature of the rights being acquired<sup>203</sup>, unless these rights apply to fractional ownership or residential tourism<sup>204</sup>.

The commercialization of periodic occupation rights by anyone other than the owner of the enterprise, or someone duly mandated by the owner, is subject to authorization by the Ministry of Tourism<sup>205</sup>. Authorisation to undertake such activity requires written application to MITUR, along with documents demonstrating the right and capability of the applicant to undertake the activity, which include<sup>206</sup>:

- Proof of incorporation and commercial registration of a commercial company;
- Quitclaim Certificates (*certidão de quitação*) from the Ministry of Finance and National Social Security Institute (INSS);
- Copies of contracts with the investors responsible for the enterprise in which periodic occupation rights are being sold.

<sup>198</sup> Periodic Occupation Regulation, Article 9, paragraph 5.

<sup>199</sup> Periodic Occupation Regulation, Article 9, paragraph 6.

<sup>200</sup> Periodic Occupation Regulation, Article 5, paragraph 1, and Article 8.

<sup>201</sup> Periodic Occupation Regulation, Article 5, paragraph 2.

<sup>202</sup> Periodic Occupation Regulation, Article 5, paragraph 3.

<sup>203</sup> Periodic Occupation Regulation, Article 5, paragraph 4.

<sup>204</sup> Periodic Occupation Regulation, Article 5, paragraph 5.

<sup>205</sup> Periodic Occupation Regulation, Article 5, paragraph 6.

<sup>206</sup> Periodic Occupation Regulation, Article 5, paragraphs 7 to 9



### 2.2.5. Real Periodic Occupation Right

The investor in a duly licensed periodic occupation premises may constitute real periodic occupation rights on units within the investment, and these rights are limited to occupation for certain parts of the year<sup>207</sup>. It is noted that other types of real rights cannot be constituted on property which already has existing real periodic occupation rights on it<sup>208</sup>.

Real periodic occupation rights are constituted by public deed (*escritura pública*)<sup>209</sup>. The public deed is prepared based on the certificate issued by the licensing authority which demonstrates that a financial guarantee has been put up by the investor, and the notary preparing the deed must specifically indicate that these documents have been shown when preparing the deed<sup>210</sup>.

Any alteration to real periodic occupation rights requires the prior consent of MITUR and must then also be effected by public deed<sup>211</sup>. Public deeds are issued subject to various costs including the payment of notarial fees, and stamp tax based on the value of the transaction.

Real periodic occupation rights are subject to registration with the Real Estate Registry (*Conservatória de Registo Predial*)<sup>212</sup>. These rights can only be conceded on a building, group of buildings or property subject of a single registration at the Real Estate Registry<sup>213</sup>. Therefore if the development is carried out in phases, subsequent additions to the overall property, and the real periodic occupation rights on these subsequent additions are registered as alterations (*averbamentos*) to the original property registration at the *Conservatória de Registo Predial*.

Each registration of a real periodic occupation right with the *Conservatória de Registo Predial* results in the issuing of a certificate, which details the rights of the bearer<sup>214</sup> (details of what the certificate must include are provided in Article 19 of the Periodic Occupation Regulation).

Registration of the real periodic occupation right can only be done after the overall development has been registered with the *Conservatória de Registo Predial* as being one which includes units on which real periodic occupation rights are to exist<sup>215</sup>. Registration of property is subject to various costs, taxes and fees, based on the property value.

Real periodic occupation rights can be transferred. When transferred *entre vivos* the same procedures as for the original registration are followed, while different procedures exist when the transfer involves *mortis causa*<sup>216</sup>. In addition, other specific requirements laid down in the Periodic Occupation Regulation, as well as in the Commercial and Civil Codes governing the transfer of property, the use of promissory and definitive contracts, execution of contracts, and payments due on contracts in Mozambique must also be

<sup>207</sup> Periodic Occupation Regulation, Article 11.

<sup>208</sup> Periodic Occupation Regulation, Article 12, paragraph 1.

<sup>209</sup> Periodic Occupation Regulation, Article 15, paragraph 1.

<sup>210</sup> Periodic Occupation Regulation, Article 15, paragraph 2.

<sup>211</sup> Periodic Occupation Regulation, Article 16.

<sup>212</sup> Periodic Occupation Regulation, Article 17, paragraph 1.

<sup>213</sup> Periodic Occupation Regulation, Article 17, paragraph 2.

<sup>214</sup> Periodic Occupation Regulation, Article 18, paragraph 1.

<sup>215</sup> Periodic Occupation Regulation, Article 18, paragraph 2.

<sup>216</sup> Periodic Occupation Regulation, Article 20.

considered<sup>217</sup>. These are all complex technical areas of law outside the scope of this manual. *Readers involved in periodic occupation are however encouraged to familiarise themselves with these issues, and in cases of doubt to seek legal counsel.*

Real periodic occupation rights in tourism investments can only be applied if at least 20% of the capacity of the establishment continues to offer tourist accommodation<sup>218</sup>, and the original enterprise must be classified as three star or above<sup>219</sup>. The establishment must have the same manager for both parts of the business and those with periodic occupation rights must have access to the communal areas available to tourists<sup>220</sup>.

The real periodic occupation right cannot be conceded for more than fifty years counted from the date of issuance of the DUAT or special license (unless the property is under construction in which case the right dates from the point where the development is open to the public)<sup>221</sup>.

The right is for specific periods of the year, of a minimum of seven and a maximum of thirty days<sup>222</sup>. All the periods of all the rights in a given investment must be of the same duration<sup>223</sup>. A period of 7 (seven) consecutive days each year must be reserved for each unit for repair and maintenance<sup>224</sup>.

The administration and upkeep of the units and the equipment they contain is the responsibility of the owner of the overall enterprise<sup>225</sup>. While the owner remains responsible for ensuring good management and the upkeep of the overall enterprise in accordance with his contract with the real periodic occupation rights-holders, he may opt to concede the management of the enterprise to third parties<sup>226</sup>. This decision must be communicated in writing to MITUR and the rights-holders within fifteen days<sup>227</sup>.

The rights-holders must pay an annual fee, or levy, as agreed in the contract, which is to be used for the maintenance and upkeep of the overall development<sup>228</sup>. The fee can also be used to contribute to paying the managers of the development though this amount may not comprise more than 20% of the total fee paid<sup>229</sup>. This fee may vary depending on the period of the year in which the right-holder has their right<sup>230</sup>.

The fee may be adjusted based on the opinion of the accountant or auditor of the investment. This being the case all right-holders must receive the opinion and the proposed new fee, and given a period of time to respond. The fee can only be altered with the approval of 60% of the rights-holders<sup>231</sup>. At least 4% of the fee must be used to constitute a reserve fund, which must be held in a separate bank account, along with any money

<sup>217</sup> Periodic Occupation Regulation, Articles 20 to 25.

<sup>218</sup> Periodic Occupation Regulation, Article 14, paragraph 1.

<sup>219</sup> Periodic Occupation Regulation, Article 14, paragraph 2.

<sup>220</sup> Periodic Occupation Regulation, Article 14, paragraph 3.

<sup>221</sup> Periodic Occupation Regulation, Article 13, paragraph 1.

<sup>222</sup> Periodic Occupation Regulation, Article 13, paragraph 2.

<sup>223</sup> Periodic Occupation Regulation, Article 13, paragraph 3.

<sup>224</sup> Periodic Occupation Regulation, Article 13, paragraph 5.

<sup>225</sup> Periodic Occupation Regulation, Article 26, paragraph 1.

<sup>226</sup> Periodic Occupation Regulation, Article 26, paragraph 2.

<sup>227</sup> Periodic Occupation Regulation, Article 26, paragraph 3.

<sup>228</sup> Periodic Occupation Regulation, Article 27, paragraphs 1 and 2

<sup>229</sup> Periodic Occupation Regulation, Article 27, paragraph 4.

<sup>230</sup> Periodic Occupation Regulation, Article 27, paragraph 3.

<sup>231</sup> Periodic Occupation Regulation, Article 29.

remaining out of the fees paid in a given year<sup>232</sup>. This reserve fund is exclusively for the repair and maintenance of the property<sup>233</sup>. The owner of the development must present proof to MITUR that this fund has been constituted<sup>234</sup>.

The owner or management concession-holder must present the accounts for the reserve fund and these must be independently audited<sup>235</sup>. The audited accounts and a management report must be sent to all rights-holders who then have the right to request any supporting documents relevant to the accounts presented<sup>236</sup>.

At least 5% of the fee must be used to constitute a specific fund for local communities around the enterprise<sup>237</sup>.

In order to ensure good management the owner, or the holder of the management concession must put up a guarantee in favour of the rights-holders to the minimum value of the annual total of the fees payable by said rights-holders<sup>238</sup>. A copy of the guarantee must be lodged with MITUR, and the guarantee can only be actioned by majority decision of all the rights-holders<sup>239</sup>. The value of the guarantee must be updated annually in line with annual fee increases<sup>240</sup>.

The contract and documents registered with the *Conservatória de Registo Predial* are sufficient to enable legal execution of the contract's terms under the Civil Code, in case of non-payment of the fee within two months of the date on which it is due<sup>241</sup>.

Rights-holders cannot be held responsible for the payment of any other taxes or fees that the investor is liable for as a result of operating a tourism investment<sup>242</sup>.

The owner or management concession-holder must present a plan of renovation and maintenance for the coming year and this must be given to all rights-holders<sup>243</sup>. Rights-holders must permit access to the unit they are occupying for cleaning and maintenance work if necessary<sup>244</sup>. If maintenance work makes one or more units temporarily unavailable for occupation the right-holder must be offered an alternative, or compensation<sup>245</sup>. Substantive changes to the units may only be made with written approval of 60% of right-holders<sup>246</sup>.

#### 2.2.6. *Tourism Occupation Right*

In general this right is treated in the same way as the real property occupation right described above<sup>247</sup>. There follows an analysis of the areas where the tourism occupation right differs.

<sup>232</sup> Periodic Occupation Regulation, Article 33.

<sup>233</sup> Periodic Occupation Regulation, Article 33.

<sup>234</sup> Periodic Occupation Regulation, Article 33.

<sup>235</sup> Periodic Occupation Regulation, Article 36.

<sup>236</sup> Periodic Occupation Regulation, Article 36.

<sup>237</sup> Periodic Occupation Regulation, Article 34.

<sup>238</sup> Periodic Occupation Regulation, Article 35.

<sup>239</sup> Periodic Occupation Regulation, Article 35.

<sup>240</sup> Periodic Occupation Regulation, Article 35.

<sup>241</sup> Periodic Occupation Regulation, Article 28.

<sup>242</sup> Periodic Occupation Regulation, Article 32.

<sup>243</sup> Periodic Occupation Regulation, Article 37.

<sup>244</sup> Periodic Occupation Regulation, Articles 30 and 31.

<sup>245</sup> Periodic Occupation Regulation, Article 31.

<sup>246</sup> Periodic Occupation Regulation, Article 31.

<sup>247</sup> Periodic Occupation Regulation, Article 45.

Tourism occupation rights include those vested through tourism clubs or cards<sup>248</sup>. In order for a tourism occupation right to be constituted the tourism establishment must already be functioning and duly licensed<sup>249</sup>. However developments may take place in phases<sup>250</sup>, and under certain circumstances tourism occupation rights may be granted on developments which are not yet complete<sup>251</sup>. The constitution of tourism occupation rights in tourism establishments requires that at least 30% of the establishment continues to offer traditional tourist accommodation and that the establishment is classified as three star or above<sup>252</sup>.

Tourism rights last for the period defined by the owner of the development, but may not be more than twenty-five and less than three years (except when the development is under construction in which case the rights can date from the date the development opens to the public)<sup>253</sup>. Rights are granted for a designated period each year, which cannot be less than seven or more than thirty (thirty) days<sup>254</sup>.

The Periodic Occupation Regulation provides a number of specifications about the type of contracts and promissory contracts that can be used for these types of rights<sup>255</sup>.

The maintenance and administration of properties with real tourism rights are largely similar to those with real periodic occupation rights<sup>256</sup>. However, in place of audited accounts, a management report is sent in the first quarter of each year<sup>257</sup>. Guarantees must be provided by the owner or manager for any fees received from the rights-holders<sup>258</sup>.

#### 2.2.7. *Real Fractional Occupation Right*

In general this right is treated in the same way as the real property occupation right described above<sup>259</sup>. This section presents areas where the real fractional occupation right differs.

Real fractional occupation rights can be constituted on property within existing tourism establishments but no more than 12 rights can be constituted on each building within the establishment<sup>260</sup>. No less than 30% of the overall establishment must continue to provide standard tourism accommodation<sup>261</sup> and the tourism establishment must be classified as four star or above<sup>262</sup>. The tourism enterprise must have one owner and the rights-holders must have access to the communal facilities and equipment<sup>263</sup>.

<sup>248</sup> Periodic Occupation Regulation, Article 38.

<sup>249</sup> Periodic Occupation Regulation, Article 39, paragraph 1.

<sup>250</sup> Periodic Occupation Regulation, Article 39, paragraph 2.

<sup>251</sup> Periodic Occupation Regulation, Article 39, paragraph 3.

<sup>252</sup> Periodic Occupation Regulation, Article 39, paragraphs 4 and 5.

<sup>253</sup> Periodic Occupation Regulation, Article 40, paragraph 1.

<sup>254</sup> Periodic Occupation Regulation, Article 40, paragraph 2.

<sup>255</sup> Periodic Occupation Regulation, Articles 41 and 42.

<sup>256</sup> Periodic Occupation Regulation, Article 43, paragraph 1, and Article 45.

<sup>257</sup> Periodic Occupation Regulation, Article 43, paragraph 2.

<sup>258</sup> Periodic Occupation Regulation, Article 44.

<sup>259</sup> Periodic Occupation Regulation, Article 50.

<sup>260</sup> Periodic Occupation Regulation, Article 46.

<sup>261</sup> Periodic Occupation Regulation, Article 48, paragraph 1.

<sup>262</sup> Periodic Occupation Regulation, Article 48, paragraph 2.

<sup>263</sup> Periodic Occupation Regulation, Article 48, paragraph 3.

The real fractional occupation right can be for an indeterminate period, and cannot be for any period less than fifteen years from the date of the relevant public deed<sup>264</sup>. The right equates to a period of time each year as agreed between those who constitute the fractional occupiers of the property, but may not be less than seven contiguous days<sup>265</sup>.

Real fractional occupation rights can be constituted in one of two ways, both requiring a public deed, but then requiring different forms of management in future<sup>266</sup>:

- Constitution of co-proprietorship;
- Constitution as a share- or quota-holder in a company which has the property as an asset.

Co-proprietorship is regulated by the Civil Code, while the company option is regulated by the Commercial and Civil Codes<sup>267</sup>. In the case of the company option the company must be a limited liability quota-hold (*limitada*) or an anonymous company (*sociedade anónima*) which has the use of the property asset as its sole function<sup>268</sup>. The public deeds are prepared based on the same documents required for the public deeds for real periodic occupation rights<sup>269</sup>.

In all other aspects the requirements for real fractional occupation rights as they apply to co-proprietorship or companies are those provided in company and property law<sup>270</sup>.

#### 2.2.8. Residential tourism

In general this right is treated in the same way as the above described real periodic occupation right<sup>271</sup>. This section deals with the areas where residential tourism is different.

Residential tourism is established by means of a public deed of purchase and sale or on the basis of a company system, through a shareholding in developments integrating residential tourism.<sup>272</sup>

The location and establishment of developments, with residential tourism as its sole object, requires approval from the Minister of Tourism, under the Tourism Regulation.<sup>273</sup>

### 2.3. REGULATION ON TRAVEL AND TOURISM AGENCIES AND TOURISM INFORMATION PROFESSIONALS

Decree 41/2005 of 30 August approved the Regulation on Travel and Tourism Agencies and Tourism Information Professionals (*Regulamento das Agências de Viagens e Turismo e de Profissionais de Informação Turística*, hereafter the “**Tourism Information Regulation**”), which regulates travel and tourism agencies and professionals providing information to tourists.

<sup>264</sup> Periodic Occupation Regulation, Article 47.

<sup>265</sup> Periodic Occupation Regulation, Article 47.

<sup>266</sup> Periodic Occupation Regulation, Article 49.

<sup>267</sup> Periodic Occupation Regulation, Article 49.

<sup>268</sup> Periodic Occupation Regulation, Article 49, paragraphs 3 to 6.

<sup>269</sup> Periodic Occupation Regulation, Article 49, paragraph 7.

<sup>270</sup> Periodic Occupation Regulation, Articles 49 and 50.

<sup>271</sup> Periodic Occupation Regulation, Article 52.

<sup>272</sup> Periodic Occupation Regulation, Article 51, paragraph 2.

<sup>273</sup> Periodic Occupation Regulation, Article 51, paragraph 3.

The Tourism Information Regulation provides for the types of agencies that can exist, the types of tours they can offer, and the different types of tour guiding, as well as providing requirements for the licensing of agencies and guides<sup>274</sup>.

### 2.3.1. *Travel Agencies*

The activities of travel agencies are divided into categories depending on their scale. Those organisations which organise large, cut-price packages are considered to be **Tourism Operators** (*Operadores Turísticos*) rather than travel agents, and must wholesale their products to travel agents who will then retail them to the individual tourists.

Travel agencies (*agências de viagem e turismo*) are permitted to undertake the following activities<sup>275</sup>:

- Organizing and carrying out tourist vacations;
- Receiving, transferring and assisting tourists;
- Representing national or foreign travel agencies;
- Obtaining passports and visas;
- Acquiring and selling travel tickets for all types of transport;
- Expediting and transferring luggage related to the tickets sold;
- Providing, when underwritten by the relevant insurance companies, travel insurance;
- Making reservations;
- Requesting on behalf of their clients, any documentation required from public services, related to the travel being undertaken;
- Provide information and advertisement material including guides, timetables and similar publications;
- Act as intermediary in vehicle hire agreements;
- Reserve and sell tickets for public events;
- Obtain hunting and fishing licenses for tourists.

Travel agencies can arrange hunting and photo safaris, but must also ensure that these activities comply with the hunting tourism legislation<sup>276</sup> (currently still being drafted).

However travel agencies must take care that none of these activities negatively affect the activities of, and services provided by individual companies such as vehicle hire operators, tour guides and those providing accommodation to tourists<sup>277</sup>.

Travel agencies can also have in their offices other activities, which are not their own but which relate to provision of services for tourists, as long as such activities are not incompatible and are duly licensed by the relevant licensing authority<sup>278</sup>. The activities must be separated and in case of doubt the tourism licensing authority must decide on compatibility of activities<sup>279</sup>.

<sup>274</sup> Tourism Information Regulation, Article 2.

<sup>275</sup> Tourism Information Regulation, Articles 6 and 7.

<sup>276</sup> Tourism Information Regulation, Article 7, paragraph 3.

<sup>277</sup> Tourism Information Regulation, Article 10

<sup>278</sup> Tourism Information Regulation, Article 11, paragraph 1.

<sup>279</sup> Tourism Information Regulation, Article 11, paragraphs 2 and 3.

The organisation of tourist excursions for profit can only be undertaken by duly licensed travel agencies<sup>280</sup>.

### **a) Application for licensing travel agencies**

Travel agencies are licensed by MITUR, which may delegate this authority to the Provincial Governor<sup>281</sup>. Licensing applications can therefore in practice be submitted to the Provincial Directorate of Tourism, addressed to the Governor<sup>282</sup>. The application process must not take more than 25 (twenty five) working days<sup>283</sup>.

Applications to license a travel agency must be made in writing and must include the following<sup>284</sup>:

- Written application addressed to the Minister of Tourism and including details of the company planning to undertake the activity (name, address of headquarters), and an indication of whether or not the activity is to be a travel agency or a tourism operator (i.e. retail or wholesale), location of the offices of the proposed agency, investment value, number of jobs to be created;
- Minutes of the constitutive General Assembly of the company and draft articles of association;
- Plan of the proposed offices to scale 1:100, indicating areas for administration and for attending the public;
- Technical proposal indicating the need for a travel agency in that particular part of the country, based on the national plans for development of tourism;
- A written description (*memória descritiva*) of the planned activity.

Note that the name given to the travel agency must accurately reflect the type of services to be provided, and the name approved must be that which is used. If the name chosen is in any language other than Portuguese, an official translation, undertaken by a government-authorized translator must be provided as part of the application process<sup>285</sup>.

### **b) Obtaining opinions and a decision on the application**

The licensing authority will then request opinions from the various relevant authorities in the area in which the activity is to be undertaken, and these authorities have 10 (ten) working days to raise any concerns<sup>286</sup>. Within 15 (fifteen) working days of receipt of the proposal the licensing authority must take a decision and must then inform the applicant within an additional 5 (five) working days<sup>287</sup>.

### **c) Inspection and issuing of the license**

The application having been approved the applicant then has 70 (seventy) working days to apply for an inspection of the premises (*vistoria*), otherwise the application is shelved<sup>288</sup>. The

<sup>280</sup> Tourism Information Regulation, Article 8.

<sup>281</sup> Tourism Information Regulation, Articles 12 and 13.

<sup>282</sup> Tourism Information Regulation, Article 14, paragraph 3.

<sup>283</sup> Tourism Information Regulation, Article 14, paragraph 2. However, other subsequent legislation provides for periods of time for responses which add up to more than 25 days.

<sup>284</sup> Tourism Information Regulation, Article 15.

<sup>285</sup> Tourism Information Regulation, Article 5.

<sup>286</sup> Tourism Information Regulation, Article 16.

<sup>287</sup> Tourism Information Regulation, Article 17.

<sup>288</sup> Tourism Information Regulation, Article 18, paragraphs 1 and 3.

application for an inspection must be made in writing and must include the following documents<sup>289</sup>:

- Certified copy of rental contract or ownership document of the premises in which the activity is to be carried out;
- Definitive commercial registration certificate (*certidão de registo comercial definitivo*) for the company, issued by the Commercial Registry (*Conservatória de Registo Comercial*);
- CV of the director of the agency and documents demonstrating the director's qualifications or at least three years experience working in the travel agency sector;
- Bank guarantee valid for at least one year<sup>290</sup>;
- Insurance valid for at least one year<sup>291</sup>.

The *vistoria* must take place within 10 (ten) days of the application being received<sup>292</sup>, and is undertaken by a multi-sectoral team, including representatives from tourism, health, and the local authority<sup>293</sup>. Usually a report (*auto de vistoria*) is produced at the *vistoria* and in practice the applicant should retain a copy of this report, to demonstrate to future teams of inspectors that the *vistoria* was carried out.

*While no mention is made of this report in the Tourism Information Regulation, applicants would do well to obtain a copy of the auto de vistoria, if possible.*

*Note: there is no legal requirement to transport, or pay for the transport, or for out of office expenses of inspectors coming to inspect the establishment. In the case of transport however, in practice applicants may choose to provide this in the interest of expediting the inspection process. For any and all payments made to government officials and any payment to any government department receipts must be provided. The law requires that each government department have a bank account and payments may be made directly into that account<sup>294</sup>. Where possible it is preferable to use this system rather than to pay cash.*

The *vistoria* being successful, a license is issued and the travel agency must purchase the necessary signage indicating the type of establishment, from MITUR within 15 (fifteen) days of the license being issued<sup>295</sup>.

The license is valid for 5 (five) years, and can be renewed on presentation of new bank guarantees, insurance certificates and the previous license<sup>296</sup>. The license must be on display in the premises of the travel agency<sup>297</sup>. The license expires if the agency is not opened within 90 (ninety) days of the license being issued, if the agency suspends activities for more than 90 (ninety) days without having good reason and having been authorised by the licensing authority, or if not renewed within 15 (fifteen) days of its expiry<sup>298</sup>.

<sup>289</sup> Tourism Information Regulation, Article 18, paragraph 2.

<sup>290</sup> Tourism Information Regulation, Articles 39 to 41. The guarantee must be of 500,000Mt for tourism operators and 250,000Mt for travel agencies, and must remain valid for as long as tours are taking place even if the agency has closed.

<sup>291</sup> Tourism Information Regulation, Articles 42 and 43. the insurance cover must be at least 100,000Mt, further details of the type of cover are provided in these articles.

<sup>292</sup> Tourism Information Regulation, Article 19, paragraph 4.

<sup>293</sup> Tourism Information Regulation, Article 19, paragraph 2.

<sup>294</sup> Decree 30/2001 of 15 October, Article 57.

<sup>295</sup> Tourism Information Regulation, Article 20, paragraphs 1 and 3.

<sup>296</sup> Tourism Information Regulation, Article 20, paragraphs 2 and 5.

<sup>297</sup> Tourism Information Regulation, Article 20, paragraph 4.

<sup>298</sup> Tourism Information Regulation, Article 21.



Travel agencies can open subsidiaries and branches. The procedure for this is also described in the Tourism Information Legislation<sup>299</sup>. Any alteration to the ownership of the company holding the travel agency license must be communicated to MITUR in writing within 30 (thirty) days of the change taking place<sup>300</sup>. Any other changes to the conditions under which the travel agency was licensed must also be communicated in writing<sup>301</sup>.

Fees are payable for all licenses applied for as follows<sup>302</sup>:

- Analysis and approval of initial application – 7,000.00MT;
- Inspection and license issuing – 13,000.00 MT;
- License renewal – 5,000.00 MT;
- Change of premises – 5,500.00 MT;
- Opening of subsidiary or branch – 6,000.00 MT;
- Change of premises of subsidiary or branch – 8,500.00 MT.

#### **d) Operating rules**

Travel agencies are obliged to use recognised tourism information professionals on organised tours and the Tourism Information Regulation provides specific requirements about the type and number of them to be used<sup>303</sup>.

The Tourism Information Regulation also provides detailed rules for the relationship between travel agencies and establishments offering accommodation to tourists<sup>304</sup>.

All travel agencies must have a publicly available complaints book and complaints procedures are detailed in the Tourism Information Regulation<sup>305</sup>.

The Tourism Information Regulation also provides rules for transport of tourists (which are further elaborated in Decree 41/2007, discussed below), the definition of programmes and tours and the prices that can be charged by agencies for specific products<sup>306</sup>.

Travel agencies are obliged, in addition to any other reporting requirements, to report quarterly (within five days of the end of the quarter) to MITUR the number and nationality of tourists they have served and the types of transport used by these tourists<sup>307</sup>.

#### *2.3.2. Tourism Information Professionals*

The Tourism Information Regulation provides for two types of tourism information professionals: tourism guides and tourism information professionals<sup>308</sup>.

**Tourism Guides** can be any one of the following<sup>309</sup>:

- Professional hunter;
- Community guide;

<sup>299</sup> Tourism Information Regulation, Article 22.

<sup>300</sup> Tourism Information Regulation, Article 23.

<sup>301</sup> Tourism Information Regulation, Article 24.

<sup>302</sup> Tourism Information Regulation, Annex V.

<sup>303</sup> Tourism Information Regulation, Articles 32 and 33.

<sup>304</sup> Tourism Information Regulation, Articles 34 to 38.

<sup>305</sup> Tourism Information Regulation, Articles 44 to 46.

<sup>306</sup> Tourism Information Regulation, Articles 47 to 58.

<sup>307</sup> Tourism Information Regulation, Article 78.

<sup>308</sup> Tourism Information Regulation, Article 25, paragraph 1.

<sup>309</sup> Tourism Information Regulation, Article 25, paragraph 2.

- Excursion guide;
- Interpreter;
- Local guide;
- Regional guide.

Tourism guides may be independent or employed by others<sup>310</sup>. On the other hand, tourism information professionals are always employed, and are the category of staff which provide tourist information in travel agencies or other tourist information premises<sup>311</sup>.

In order to become licensed as a **tourism information professional** the individual must submit a written application to MITUR including the following documents<sup>312</sup>:

- Certified copy of ID document or equivalent;
- CV;
- Police clearance certificate;
- Certified copy of qualifications – certificates must indicate the areas studied and be relevant to the activity to be undertaken<sup>313</sup>.

Foreigners or those holding certificates obtained abroad can also be licensed as tourism information professionals as long as their certificates are duly recognised by the relevant national authority<sup>314</sup>.

If the application is successful the licensing authority will issue an identification card which is valid for 3 (three) years and can be renewed<sup>315</sup>. This card must be carried at all times when the tourism information professional is working<sup>316</sup>. Trainee tourism information professionals must also have a card, and their accompanying tours must be specifically authorised by the relevant travel agency<sup>317</sup>.

*The Tourism Information Regulation does not specify whether or not a fee is payable for licensing as a tourism information professional. According to information provided by DINATUR on 3 December 2014, tourism information professionals do not have to pay a licensing fee. Their licensing is done by only submitting an identification document and a confirmation of their good repute under the terms required by the Tourism Information Regulation.*

The exercise of travel agency and tourism operator activities is subject to the payment of a guarantee in favour of the licensing authority.<sup>318</sup> A travel and tourism agency must also obtain an insurance to guarantee their professional liability, covering damage to property and personal injury caused to clients and third parties.<sup>319</sup>

## 2.4. TOURISM ENTERTAINMENT REGULATION

Decree 40/2007 of 24 August approved the Tourism Entertainment Regulation (*Regulamento de Animação Turística*, hereafter the “**Tourism Entertainment Regulation**”),

<sup>310</sup> Tourism Information Regulation, Article 25, paragraph 3.

<sup>311</sup> Tourism Information Regulation, Article 26.

<sup>312</sup> Tourism Information Regulation, Article 27, paragraph 1.

<sup>313</sup> Tourism Information Regulation, Article 27, paragraph 2.

<sup>314</sup> Tourism Information Regulation, Article 27, paragraph 3.

<sup>315</sup> Tourism Information Regulation, Article 28, paragraphs 1 and 5, and Article 29.

<sup>316</sup> Tourism Information Regulation, Article 28, paragraph 2.

<sup>317</sup> Tourism Information Regulation, Article 28, paragraphs 3 and 4.

<sup>318</sup> Tourism Information Regulation, Articles 39 - 41.

<sup>319</sup> Tourism Information Regulation, Article 42.

designed to regulate a diverse variety of types of activities which may be undertaken by tourists<sup>320</sup>.

Activities covered by the regulation include<sup>321</sup>:

- Horse riding, walking, cycling and boat tours;
- Tours in all-terrain tourism vehicles or on motorbikes;
- Rickshaw tours;
- Trips on the sea and lakes;
- Traditional games;
- Traditional regional products;
- Local fairs and festivals;
- Traditional socializing, education and commercial establishments;
- Gastronomy;
- Local arts and crafts;
- Thermal and therapeutic baths;
- Mountain climbing;
- Ballooning;
- Para-gliding;
- Parachuting;
- Micro-lighting;
- Golf;
- Surfing, windsurfing, bodyboarding and wakeboarding;
- Water skiing;
- Sailing, rowing, and canoeing;
- Diving (which also has its own regulation);
- Sport fishing;
- Go-karting;

Other activities can be added to the list by decision of the Council of Ministers<sup>322</sup>.

These activities can be undertaken by specifically licensed operators, by travel agencies and by those providing accommodation to tourists, provided that they have the relevant license under the Tourism Entertainment Regulation as well as under their own sub-sector (e.g. travel agency license, tourism accommodation license)<sup>323</sup>.

#### **a) Application for licensing**

The provision of the activities listed is dependent on the operator obtaining a license which is issued by MITUR, or the Provincial Governor<sup>324</sup>. The application must be made in writing addressed to the Minister of Tourism and must include the following documents<sup>325</sup>:

- Letter of application (*requerimento*) including: name, nationality, address (for natural persons) and name and headquarters' address (for legal persons); the value to be invested; estimated number of jobs to be created;

<sup>320</sup> Tourism Entertainment Regulation, Articles 1 and 2.

<sup>321</sup> Tourism Entertainment Regulation, Article 4.

<sup>322</sup> Tourism Entertainment Regulation, Article 4.

<sup>323</sup> Tourism Entertainment Regulation, Article 3, paragraph 2, and Article 5, paragraph 1.

<sup>324</sup> Tourism Entertainment Regulation, Articles 6 and 7.

<sup>325</sup> Tourism Entertainment Regulation, Article 9.

- Copy of certificate of commercial registration of an own-name entrepreneur (natural person) or company articles of association (*estatutos* – legal person);
- Proof of registration with Ministry of Finance (i.e. provision of tax number – NUIT);
- Plan of the proposed offices to scale 1:100, indicating areas for administration and for attending the public;
- Technical proposal indicating the need for a travel agency in that particular part of the country, based on the national plans for development of tourism;
- A written description (*memória descritiva*) of the planned activity.

#### **b) Obtaining opinions and decision on the application**

The licensing authority may request opinions from other departments and must then issue its decision within 15 (fifteen) working days of receipt of the application<sup>326</sup>.

#### **c) Inspection and issuing of the license**

Before the license can be issued an inspection (*vistoria*) must take place<sup>327</sup>. This takes place within 10 (ten) working days after the receipt of the opinions<sup>328</sup>.

The Tourism Entertainment Regulation does not require the applicant to submit a written request for the inspection. In practice however this is usually required. Usually a report (*auto de vistoria*) is produced at the *vistoria* and in practice the applicant should retain a copy of this report, to demonstrate to future teams of inspectors that the *vistoria* was carried out.

*While no mention is made of this report in the Tourism Entertainment Regulation, applicants would do well to obtain a copy of the auto de vistoria, if possible.*

The *vistoria* being successful a license, valid for 5 (five) years and renewable, is issued<sup>329</sup>. This license is non-transferable<sup>330</sup>. The license expires if not renewed within 15 (fifteen) days of its expiry date<sup>331</sup>.

Any changes to the basis on which the license was issued must be communicated in writing to MITUR, and may result in a new licensing application being required<sup>332</sup>.

#### **d) Operating rules**

License-holders must have adequate insurance for the activities they plan to provide to tourists and must put up bank guarantees to values established in the legislation. Copies of the bank guarantees and insurance certificates must be lodged with MITUR<sup>333</sup>.

License-holders may use their own transport to provide the activities to tourists. These vehicles and their drivers must be appropriately licensed and must carry their licensing documents with them at all times.

<sup>326</sup> Tourism Entertainment Regulation, Articles 10 and 11.

<sup>327</sup> Tourism Entertainment Regulation, Article 12, paragraph 1.

<sup>328</sup> Tourism Entertainment Regulation, Article 12, paragraph 2.

<sup>329</sup> Tourism Entertainment Regulation, Article 13.

<sup>330</sup> Tourism Entertainment Regulation, Article 13, paragraph 4.

<sup>331</sup> Tourism Entertainment Regulation, Article 14.

<sup>332</sup> Tourism Entertainment Regulation, Article 15.

<sup>333</sup> Tourism Entertainment Regulation, Articles 16 to 22.

Tourism entertainment license-holders may not compete with other providers of services specifically designed for the transport of passengers in general and tourists in particular<sup>334</sup>.

Tourism entertainment license-holders must have a complaints book publicly available for their clients, and complaints must be dealt with in accordance with the legal provisions<sup>335</sup>.

## **2.5. AMATEUR DIVING REGULATION**

While diving is generically regulated by the Tourism Entertainment Regulation, it also has its rules established in a specific regulation, approved by Decree 49/2014 of 22 September, the Amateur Diving Regulation (*Regulamento do Mergulho Amador*, hereafter the “**Amateur Diving Regulation**”).

Under the Amateur Diving Regulation, diving centres and diver training schools must be duly licensed by the National Maritime Authority (*Autoridade Marítima Nacional*), without prejudice to the need to obtain other relevant licenses<sup>336</sup>.

### **a) Application for licensing**

In order to obtain a license diving centres and schools must make a written application to the National Maritime Authority, including the following documents<sup>337</sup>:

- Proof of incorporation of a company for the purpose (e.g. articles of association listing diving instruction and guiding as an objective of the company);
- Programme of courses to be offered (which must comprise courses approved by the National Maritime Authority), in the case of diving schools;
- Tax registration;
- Proof of certification and qualifications of the technical director, guides and medical personnel;
- List of equipment to be used (as a minimum the operation must have a boat, a vehicle, a mechanical resuscitator or artificial respirator, communication system, oxygen tanks, and diving signalling equipment);
- Plans or drawings of the site for the school, and dive operation (as a minimum the site must have a classroom, a health post with the necessary equipment and medicines, and a pool);
- Map of the area for the practical part of amateur diving, including coordinates;
- Favourable opinion of the local Maritime Authority, the Ministry for the Coordination of Environmental affairs (MICOA) and the Ministry of Defence.

### **b) Inspection and issuing of the license**

The license is issued subject to an inspection which must be requested in writing. The centre or school must be inspected annually, by 31 March each year<sup>338</sup>. This license has a validity of 3 (three) years, renewable<sup>339</sup>.

<sup>334</sup> Tourism Entertainment Regulation, Article 23.

<sup>335</sup> Tourism Entertainment Regulation, Article 31.

<sup>336</sup> Amateur Diving Regulation, Article 4, paragraph 2.

<sup>337</sup> Amateur Diving Regulation, Articles 9 to 11, and Annex B.

<sup>338</sup> Amateur Diving Regulation, Articles 13.

Activities must begin within 90 (ninty) days of licensing and the dive operator must inform the Maritime Authority about each course and which staff will be involved in it.<sup>340</sup>.

### c) Operating rules

The following minimum safety requirements are regulated by the Amateur Diving Regulation<sup>341</sup>:

- **In the pool** – a doctor or nurse with specific experience in diving physiopathology, equipment for artificial resuscitation or respiration, a first aid pharmacy available;
- **On the sea** – a support boat carrying equipment for artificial resuscitation or respiration with a doctor or nurse with specific experience in diving physiopathology on board, along with a diver ready to dive, and for dives of more than 40 metres an individual decompression chamber.

The Amateur Diving Regulation provides specific requirements for the qualifications of the technical director and the diving instructors and guides<sup>342</sup>, and for the certification of those learning to dive<sup>343</sup>, as well as for the maintenance of individual dive logs.

Fees are payable for the licensing of diving operations and schools and for the authorisation given by the National Maritime Authority for individuals to dive<sup>344</sup>.

## 2.6. TOURISM TRANSPORT REGULATION

The transport of tourists by any means (air, land or water) is regulated by Decree 41/2007 of 24 August, the Tourism Transport Regulation (*Regulation de Transporte Turístico*, hereafter the “**Tourism Transport Regulation**”).

The Tourism Transport Regulation applies to travel agencies and any other individuals or organisations providing paid transport for tourists<sup>345</sup>. In addition to the Tourism Transport Regulation, the Tourism Information Regulation, commercial legislation regulating transport contracts, and the specific regulations governing road, air and water transportation also apply<sup>346</sup>.

### a) Application for licensing

Licensing of tourism transport activities is undertaken by the Ministry of Transport, which may delegate licensing to provincial level<sup>347</sup>. The licensing process must be concluded within 20 (twenty) working days from the date of receipt of application<sup>348</sup>. *In practice operators report that this time period is rarely complied with.*

The licensing application must be made in writing and include the following information<sup>349</sup>:

<sup>339</sup> Amateur Diving Regulation, Article 14.

<sup>340</sup> Amateur Diving Regulation, Article 15, paragraphs 2 and 3.

<sup>341</sup> Amateur Diving Regulation, Annex B.

<sup>342</sup> Amateur Diving Regulation, Articles 6 and 16.

<sup>343</sup> Amateur Diving Regulation, Articles 17 to 20.

<sup>344</sup> Amateur Diving Regulation, Article 36.

<sup>345</sup> Tourism Transport Regulation, Article 3.

<sup>346</sup> Tourism Transport Regulation, Article 4.

<sup>347</sup> Amateur Diving Regulation, Articles 7, 8 and 9

<sup>348</sup> Amateur Diving Regulation, Article 9, paragraph 2.

<sup>349</sup> Amateur Diving Regulation, Article 10.

- Letter of application (*requerimento*) including: name, nationality, address (for natural persons) and name and headquarters' address (for legal persons);
- Type of tourism transport to be undertaken;
- Value being invested;
- Number of jobs being created;
- Parking area where the form of transport will be available to the public;
- Proof of ownership of the methods of transport to be used;
- Characteristics of each form of transport, including year of manufacture, model, capacity, make and condition;
- Copy of certificate of commercial registration of one-person company (natural person) or company articles of association (*estatutos* – legal person);
- Proof of registration with Ministry of Finance (i.e. provision of tax number – NUIT);
- Plan of the proposed offices to scale 1:100, indicating areas for administration and for attending the public;
- Technical proposal indicating the need for a tourism transport operation in that particular part of the country, based on the national plans for development of tourism;
- A written description (*memória descritiva*) of the planned activity.

In addition applicants must put up a bank guarantee of a minimum of 500,000.00MT (five hundred thousand meticaís) and have the correct type of insurance for the activity undertaken. Proof of the bank guarantee and insurance must be lodged with the licensing authority and kept up to date<sup>350</sup>.

### **b) Obtaining opinions, inspection and issuing of the license**

The Ministry of Transport may request written opinions from other government departments prior to issuing a decision on the application<sup>351</sup>. If the decision is favourable the issuing of a license is conditional on an inspection (*vistoria*)<sup>352</sup>.

All forms of tourism transport must have an inspection stamp (*selo de vistoria*) which is displayed prominently on the mode of transport<sup>353</sup>. The name of the transport operator must be clearly displayed on land transport vehicles<sup>354</sup>. Annual inspections must be undertaken and the *selo de vistoria* updated<sup>355</sup>. In addition ad hoc inspections may be undertaken at any time by the Ministry of Transport<sup>356</sup>.

In addition to licensing each individual vehicle the Ministry of Transport issues an operating license (*alvará*) which is valid for an indeterminate period<sup>357</sup>. Any changes to the criteria on which the *alvará* was issued must be communicated in writing to the Ministry of Transport<sup>358</sup>.

<sup>350</sup> Amateur Diving Regulation, Articles 30 to 32.

<sup>351</sup> Tourism Transport Regulation, Articles 10 to 13.

<sup>352</sup> Tourism Transport Regulation, Article 13.

<sup>353</sup> Tourism Transport Regulation, Article 14.

<sup>354</sup> Tourism Transport Regulation, Article 14, paragraph 4.

<sup>355</sup> Tourism Transport Regulation, Article 14, paragraph 2.

<sup>356</sup> Tourism Transport Regulation, Article 14, paragraph 3.

<sup>357</sup> Tourism Transport Regulation, Articles 15 and 16.

<sup>358</sup> Tourism Transport Regulation, Article 16, paragraph 3, and Article 17.

### c) Operating rules

In addition to the standard road rules covering passenger transport the following apply to road transport vehicles licensed to transport tourists<sup>359</sup>:

- a) Have air-conditioning;
- b) Have an AM/FM radio;
- c) Be in a perfect state of conservation in and outside;
- d) Be in perfect conditions of safety, comfort and hygiene;
- e) Have a first aid kit;
- f) Solely be used for passenger transport;
- g) Have a bar service, cushions, uniformed drivers and provide books and newspapers in the case of buses.

The vehicles used must belong to the license-holder, and only in exceptional circumstances, when duly authorised by the licensing authority, hired vehicles can be used<sup>360</sup>. Special types of vehicle may be used depending on the terrain which the tourists will be visiting, but these are also subject to authorisation by the licensing authority<sup>361</sup>.

Water transport can only be provided to tourists in boats licensed for commercial and recreational purposes<sup>362</sup>. In addition to the standard legal requirements for such vessels, boats used for transporting tourists must have<sup>363</sup>:

- a) A toilet;
- b) Communication equipment;
- c) Microphones and loud-hailers;
- d) AM/FM radio;
- e) Support boat to get passengers aboard;
- f) First aid kit;
- g) Rubbish bins;
- h) Bar with place for keeping glasses, bottles and ice;
- i) Marine safety equipment such as life jackets, life rafts, and firefighting equipment.

Tourism transport drivers must be licensed to transport passengers, have at least two years driving experience in the type of vehicle they will drive the tourists in, have passed an exam specifically for tourism transport drivers and have knowledge of national and international languages<sup>364</sup>. The Tourism Transport Regulation also provides a list of obligations for drivers<sup>365</sup>.

All licensed tourism transport operators must have complaints books publicly available and must deal with complaints as described in the Tourism Transport Regulation<sup>366</sup>. They must also provide statistics on a quarterly basis to MITUR about the number and nationality of tourists they have dealt with<sup>367</sup>.

<sup>359</sup> Tourism Transport Regulation, Article 19.

<sup>360</sup> Tourism Transport Regulation, Article 21.

<sup>361</sup> Tourism Transport Regulation, Article 22.

<sup>362</sup> Tourism Transport Regulation, Article 23.

<sup>363</sup> Tourism Transport Regulation, Article 24.

<sup>364</sup> Tourism Transport Regulation, Article 26.

<sup>365</sup> Tourism Transport Regulation, Article 27.

<sup>366</sup> Tourism Transport Regulation, Article 47.

<sup>367</sup> Tourism Transport Regulation, Article 49.



## 2.7. ECOTOURISM REGULATION

The development of ecotourism is regulated by the Ecotourism Regulation, approved by Decree 88/2009 of 31 December (*Regulamento do Ecoturismo*, hereafter the “**Ecotourism Regulation**”).

Under this Regulation ecotourism is the set of tourism activities developed in a sustainable way, ensuring the conservation of the environment and the well-being of the local communities with the involvement of tourists and consumers of tourism products and services<sup>368</sup>.

Ecotourism activities are undertaken according to various ways of lodging, ancillary ecotourism activities and services, allowing the viewing and enjoyment of the natural, architectural, landscape and cultural heritage, with a view to the provision of an integrated and diversified tourism product<sup>369</sup>.

Ecotourism development areas are the following<sup>370</sup>:

- a) National parks;
- b) National reserves;
- c) Zones of historical and cultural use and value;
- d) Other zones with appropriate characteristics.

The activities covered by the Ecotourism Regulation include lodging and ecotourism entertainment services.

### 2.7.1. *Lodging services*

The application procedure for lodging service licensing is similar to the procedure described with respect to the Tourism Regulation, as described in section 2.1 above<sup>371</sup>, with the necessary adaptations.

In order to enable an enterprise to be authorized as an ecotourism development, the installation of its infrastructures, machines and equipment must be done in such a way that they do not produce noise, vibrations, smoke or smells that may disturb or affect the environment and the comfort of guests.

It is noted that with the creation of ANAC and in the scope of its conservation areas management powers, Decree 9/2013 of 10 April stipulates that ANAC is responsible for licensing hunting and ecotourism activities in conservation areas.<sup>372</sup>

### 2.7.2. *Ecotourism entertainment*

Ecotourism entertainment activities are those developed on the basis of a series of activities, services or facilities to promote the occupation of the leisure time of tourists and visitors, by getting to know the specific natural and cultural values of the area where ecotourism is being developed.

<sup>368</sup> Ecotourism Regulation, Article 1, clause m).

<sup>369</sup> Ecotourism Regulation, Article 3, paragraph 2.

<sup>370</sup> Ecotourism Regulation, Article 6, paragraph 1.

<sup>372</sup> Decree 9/2013 of 10 April, Article 4, clause f).

Ecotourism entertainment is divided into different forms, as follows:

- a) **Entertainment:** includes, among others, gastronomy, regional traditional handicraft products, fairs, feasts, thematic routes, traditional games, picnic sites, and traditional means of transport;
- b) **Environmental interpretation:** includes, among others, interpretation centres, observatories and initiatives, periodic or once-only projects or activities without physical facilities;
- c) **Nature sports:** includes, among others, abseiling, paragliding, mountain biking, horse-riding, rafting, or other sports and leisure activities that are not harmful to the conservation of nature.

In the case of ecotourism entertainment, the procedures laid down in the Tourism Entertainment Regulation, as described in section 2.4 above, apply, with the necessary adaptations, to the application procedure for licensing lodging services.

An application for licensing must be addressed to the Minister of Tourism, or to the Provincial Governor of the area where the project is intended to be developed. This power may however be delegated. In addition to the requirements laid down in the Tourism Entertainment Regulation, the application for licensing must also include the following information:

- a) Location of the proposed enterprises;
- b) Purpose of the ecotourism entertainment activity, initiative or project;
- c) Projects of a social nature, aimed at contributing to the well-being of local communities.

In addition to the requirements under the Tourism Entertainment Regulation, the following documents must also be annexed to the application for licensing:

- a) Notarised copy of the articles of association published in the Official Gazette (*Boletim da República*) and commercial registration certificate, if applicable;
- b) Proof of adequate qualifications of the instructors, in case nature sports will be practised;
- c) Proof of the agreement of the legitimate DUAT holders or the local communities, if the project is implemented in land belonging to private individuals or occupied by local communities;
- d) Construction license, if construction works have been carried out;
- e) The opinion of MICOA on the environmental impact; and
- f) Proof of payment of the licensing fee.

The license for ecotourism entertainment activities has a maximum validity of 5 (five) years, renewable for equal periods, provided that the nature of the activity does not change. The transfer of this license is subject to prior authorisation of the licensing authority, and in this case the entity to which the license is transferred must submit the same documents required from the holder of the license for the purpose of it being issued.

The license for ecotourism entertainment activities becomes invalid if the applicant does not commence the activity within 180 (one hundred and eight) days after the issuing of the license, if the company has been closed for more than a year, except if this is because of works, and if the application for renewal has not been submitted within 15 (fifteen) days before the end date of its validity.

After receiving the license, the holder must submit to the licensing authority a civil liability insurance covering the risks of the activity to be developed. The applicant must also submit proof of a financial guarantee, under the Tourism Entertainment Regulation (treated in section 2.4 above).

It is noted that the licensing authority must register all licensed ecotourism operators and that this registration must describe the identification of the operator, administrators, managers and directors, the services provided and the trade name. Applied sanctions, inspection reports and praise given to the ecotourism operator will also be included in this registration.

## **2.8. THE GAMBLING LAW**

The exploitation of games of chance in Mozambique is regulated by Law 1/2010 of 10 February, approving the **Gambling Law** (*Lei de Jogos de Fortuna ou Azar*, hereafter "**Gambling Law**"), as well as the respective Regulation, approved by Decree 64/2010 of 31 December (hereafter the "**Gambling Law Regulation**").

Games of chance are considered those exploited or practised in duly authorized casinos or gambling machine halls, and with uncertain capital, as this depends exclusively or mainly on the gambler's luck.

The exploitation of games of chance is reserved to the State, and can only be performed by limited liability share companies ("*sociedades anónimas*") incorporated in Mozambique with the purpose of exploiting games of chance or other games in casinos.

The exploitation of casinos can be done on an exclusive basis, when the exploitation in a certain geographical area is done by a single entity, or under special rights when the exploitation of a certain geographical area is attributed to various entities.

Concessions for the exploitation of games of chance in casinos are granted by means of a public tender and the Minister of Tourism is competent for awarding them. However, the Government may dispense with a public tender and grant the proponent investors initial concessions for the exploitation of the respective casinos.

The granting of a gambling exploitation concession is subject to the competitor's proof of his good repute and financial standing.

Good repute is verified through the following criteria<sup>373</sup>:

- a) Experience and reputation;
- b) Nature and reputation of the companies belonging to the competitor's group, namely those being dominant shareholders;
- c) Character and reputation of the entities closely linked to the competitor, namely those being dominant shareholders;

<sup>373</sup> Gambling Law, Article 15, and Gambling Law Regulation, Article 27.

- d) Criminal record;
- e) Tax registration certificate;
- f) References issued by the authorities supervising the game of chance in the country of origin.

The requirement of good repute also includes the competitor's shareholders holding 5% of its share capital, the directors and main employees with relevant positions in the casinos.

The financial standing is verified through the following criteria<sup>374</sup>:

- Economic and financial situation of the competitor;
- Economic and financial situation of the companies that are dominant shareholders of the competitor;
- Economic and financial situation of the entities closely linked to the competitor, namely those who undertake to ensure the funding of investments and the obligations which the competitor intends to make or assume;
- Economic and financial situation of those holding 5% or more of the competitor's share capital;
- Nature and type of casino or casinos which the competitor intends to exploit and the infrastructures to be associated;
- Financial statements of the last two years, in the case of already incorporated companies; and
- Bank account details.

The General Inspectorate of Gambling may request the submission of a bank guarantee by the competitor, in case it is feared that his financial standing may decrease.

Both the financial standing and the good repute must be maintained during the concession period and are subject to permanent Government monitoring and supervision.

It should be noted that at least 26% (twenty six per cent) of the share capital of the company to which the exploitation of games of chance is granted must be held by Mozambican shareholders headquartered in national territory<sup>375</sup>.

The final award of the gambling concession is followed by the licensing of the casino or the gambling hall by MITUR<sup>376</sup>. The licensing process must include the approval of the technical characteristics of the premises and the respective furniture, equipment and gambling material, as well as the rules of the specific games.

It is noted that the above-mentioned exploitation concession does not exclude the need to obtain a specific license to be issued by MITUR, considering the specific conditions of the casino and its location.

A concession for the exploitation of games of chance in casinos has a minimum duration of 10 (ten) years and a maximum duration of 30 (thirty) years, renewable.

### 2.8.1. *Casinos and gambling halls*

<sup>374</sup> Gambling Law, Article 16, and Gambling Law Regulation, Article 27

<sup>375</sup> Gambling Law Regulation, Article 11, paragraph 2.

<sup>376</sup> Gambling Law Regulation, Article 23.

The exploitation of games of chance in casinos is only allowed in casinos in association with one or more 4-star hotels or above. In Maputo City, the casinos must be associated with one or more 5-star hotels or above. However, the exploitation of automatic gambling machines in halls outside casinos may be authorized, provided they are duly approved.

Casinos must satisfy requirements of functionality, comfort, convenience and safety, having furniture and equipment of adequate quality and working order for the requirements of the respective services.

The law establishes the submission of specific requirements by casinos for the purpose of licensing<sup>377</sup>.

### 2.8.2. *Casinos and Gambling halls*

Gambling halls are especially designed for the practice of their inherent activities and their access must be reserved. The entry of the following individuals in gambling halls is prohibited:

- Office bearers of State bodies;
- Members of Government,
- Members of Parliament and members of committees with specific competency in the gambling area;
- Minors below 18 years of age;
- Those who are incapacitated and guilty of fraudulent bankruptcy, except if they have been rehabilitated;
- Casino employees, when not in service; and
- Government or bank employees performing tasks of cashier, treasurer or collector, bank managers and taxation area officers.

<sup>377</sup> Gambling Law Regulation, Articles 31 and 32.

### 3. OTHER RELEVANT LEGISLATION FOR TOURISM

#### 3.1. REGULATION ON TOURISM INTEREST ZONES

The **Regulation on Tourism Interest Zones** (*Regulamento das Zonas de Interesse Turístico*), approved by Decree 77/2009 of 15 December, establishes the rules to be observed for declaring a certain area as being of tourism interest and establishes the effects resulting from such a declaration.

The Tourism Interest Zones (“ZITs”) are areas especially aimed at the promotion of tourism activities. This regulation determines that any region or area of the national territory, occupied or not, can be declared a tourism interest zone, provided that it has the relevant characteristics, such as natural, historical-cultural resources capable to give rise to flows of domestic and foreign tourists, with an economic dynamics essentially based on the development of tourism as its main activity<sup>378</sup>. Other areas different from those indicated here can also be covered, provided that they have potential to produce integrated ecotourism projects, or have already been identified as a priority area for the development of tourism<sup>379</sup>.

In areas identified as such the issuing of DUATs and special licenses must be suspended until the approval or adaptation of the land use planning tools. In these areas the National Tourism Institute (*Instituto Nacional do Turismo - “INATUR”*) will issue binding opinions with respect to the merit of the applications for DUATs and special licenses<sup>380</sup>. Where the ZITs are situated in a Special Economic Zone, INATUR’s competences are transferred to the Office of Accelerated Development Zones (*Gabinete das Zonas Económicas de Desenvolvimento Acelerado – GAZEDA*).

A tourism interest zone declaration must respect legally obtained rights<sup>381</sup> (DUAT, Special Licenses or any other license for the construction of infrastructures). In this case, it is understood that there will be no expropriation of the plots in question, in case this is necessary for the implementation of the developments that are to be planned for the ZIT. However, provided that the implementation of the respective projects has not yet started on the date of the ZIT declaration, in these zones no activity or building of any infrastructures can be done until the respective land use planning tool has been changed.

The Council of Ministers has already declared a few ZITs, through the following decrees:

- Decree 70/2010 of 31 December, declares the Chiunga zone, situated in Metangula Municipality, Lago District, Niassa Province, a 80-hectare ZIT;
- Decree 71/2010 of 31 December, declares the forest zone of Lichinga Town, Niassa Province, a 100-hectare ZIT;
- Decree 72/2010 of 31 December, declares the East Coast from Pemba Town to Murrébué, Cabo Delgado Province, a 1081-hectare ZIT;
- Decree 73/2010 of 31 December, declares the Chiunga zone, situated in Metangula Municipality, Lago District, Niassa Province, a 80-hectare ZIT;

<sup>378</sup> Regulation on Tourism Interest Zones, Article 3(1).

<sup>379</sup> Regulation on Tourism Interest Zones, Article 3(2, 3).

<sup>380</sup> Regulation on Tourism Interest Zones, Article 16(a).

- Decree 74/2010 of 31 December, declares the Crusse and Jamali islands area, Nampula Province, a 1750-hectare ZIT;
- Decree 75/2010 of 31 December, declares the Mapanzene and Chipongo zone, Inhambane Province, a 2750-hectare ZIT; and
- Decree 79/2010 of 31 December, declares Pemba Bay, Cabo Delgado Province, a 1400-hectare ZIT.

These decrees creating ZITs stipulated that the respective spatial development plans (*planos de ordenamento e desenvolvimento* - "POD") should be approved within 6 months from the date of each decree entering into force.

*According to information provided by DINATUR in Maputo on 3 December 2014, the PODs are still in the approval phase, with special focus on the conclusion of the Macro Master Plan, and only the completion of the detailed plans is lacking.*

### **3.2. CONSERVATION LAW, MARINE ENVIRONMENT AND COMPLEMENTARY ENVIRONMENT LEGISLATION**

#### *3.2.1. Conservation Law*

**Law 16/2014 of 20 June**, approving the Conservation Law (*Lei da Conservação*, hereafter "**Conservation Law**"), establishes the principles and basic standards for the protection, conservation, renewal and sustainable use of the biological diversity in conservation areas, as well as the framework for an integrated administration for a sustainable development of the country.

Takin into account the objectives of each category of conservation area, the law stipulates that the development of activities in conservation areas may be authorized, provided that it is for reasons of public need, utility or interest and by means of obtaining specific authorisations for this purpose, including: concessions for the exercise of tourism activities; concessions for the practice or exercise of hunting, fishing and the exploitation of forest resources; capture of live animals and egg collecting; beekeeping; scientific research and other activities, as provided for in the management plan of the conservation area in question.

The Law stipulates that the specific standards for the coordination and implementation of its policies, including participatory administration with intervention of the private sector and local communities, should be defined by the Council of Ministers. The Law states that the competent Ministry for this implementation will be the minister supervising the conservation sector, i.e., MITUR.

Public and private entities exploiting natural resources in conservation areas must contribute financially to the protection of the biodiversity in the respective conservation area, compensate the State for the environmental impact and pay fees for the use of these areas. The Council of Ministers is competent to approve the value of the fees due, as well as to issue licenses for the exercise of activities and other authorisations.

The procedures for obtaining the above-mentioned concessions are referred to specific legislation, without prejudice of compliance with the restrictions laid down in the

Conservation Law and in the management plans to be approved.<sup>382</sup> It is also noted that the Law stipulates that uses compatible with the area may be subject to direct authorisation of the administration of the conservation area in question, given that they are provided for in the respective management plan.<sup>383</sup> If the applications for use come from other State authorities, the administration of the area must issue a binding opinion on their acceptance or not.

Given that there are populations living in most conservation areas, the Conservation Law clarifies that in the case of there being incompatibility between the presence of people and the legal status of the conservation area or which impedes its management, the State shall resettle the population. In these cases, the payment of a fair compensation will be due. Nevertheless, the rule is that the populations must be encouraged to maintain good practices and to change practices that undermine the objectives of the area in question and, for the success of sustainable management of these areas it is expected that the communities can be included in possible partnerships and projects to be developed with private investors.

*It is important to emphasize that developments in conservation areas will have to take into account a variety of legal provisions to have a complete picture of the requirements, necessary licenses and authorisations, procedures to be followed, fees due, among other aspects. For example, it will be necessary to consider also the land legislation, the forest and wildlife legislation, the tourism legislation, the environment legislation, the land use planning legislation, and others. When dealing with a specific project, it is recommended to seek specialized legal counsel to obtain guidance on the most efficient way to steer the process and guarantee compliance with the law.*

### 3.2.2. Regulation for the Prevention of Pollution and the Protection of the Marine Environment

Decree 45/2006 of 30 November, the Regulation for the Prevention of Pollution and the Protection of the Marine Environment (*Regulamento para Prevenção de Poluição e Protecção do Ambiente Marinho e Costeiro*, hereafter the “**Marine Environment Regulation**”) introduces a number of requirements with a view to protecting Mozambique’s coast from pollution and environmental damage.

The Marine Environment Regulation establishes the standards for the prevention and limitation of pollution from illegal discharges by ships, platforms or land-based sources, off the Mozambican coast, as well as the protection and conservation standards for the areas forming the maritime and inland water public domain, the beaches and the ecosystems.

Of particular relevance to tourism investors are the requirements governing waste and chemical management (Articles 43-53) and those regulating the management of beaches.

Under the Marine Environment Regulation certain beaches can be specifically designated bathing beaches by MITUR in consultation with all relevant stakeholders. Such beaches must be clearly designated and must have a dedicated safety system, including qualified life guards. The use of motor vehicles on designated bathing beaches, except in specific, exceptional and authorised circumstances, is prohibited.

Motorised water sports are also prohibited in the vicinity of designated bathing beaches. Many other specific requirements apply to designated bathing beaches, including the

<sup>382</sup> Conservation Law, Article 27.

<sup>383</sup> Conservation Law, Article 41, paragraph 2.



prohibition of large domestic animals, such as horses, on the beaches and the requirement that small animals are on leads, and the prohibition of some types of fishing in the area.

The Marine Environment legislation includes specific articles protecting tropical fish, coral, turtles and other rare marine species found along the Mozambican coast. It also prohibits the introduction of non-native species that could damage the local environment.

Proprietors of any establishment in an area covered by the Marine Environment Regulation (i.e. along the coast, near beaches, on islands, etc.) must publicly display a copy of Annex VII of the Regulation which lists the infractions and sanctions for those who cause damage to the marine environment (see Section 4).

### 3.2.3. *Environment Legislation*

**Law 20/97 of 1 October**, approving the Environment Law (*Lei do Ambiente*, hereafter the “**Environment Law**”) establishes the fundamental general principles of the environment policy, including: the rational use and management of environmental elements in order to promote the improvement in the quality of life of citizens and treasure the traditions and knowledge of the local communities. With a view to the conservation and preservation of the natural resources and holding those who cause environmental damage in deliberate acts degrading the environment responsible, the law establishes a series of general standards depending on complementary regulations.

In defence of biodiversity the Environment Law stipulates in Article 12 that all activities which threaten conservation, reproduction, quality and quantity of biological resources, especially those which are threatened with extinction, are prohibited, while the Government shall ensure that appropriate measures are taken for the protection of biodiversity.

The Environment Law also provides guidelines regarding the need for environmental licensing, as well as defines the rights and obligations of citizens. It is also important to note that this law stipulates that liability for environmental damage is objective, i.e., irrespective of guilt and of compliance with legal provisions on the part of the agent responsible for the damage in question.<sup>384</sup>

Considering that the Environment Law establishes general principles for the proper management of the natural resources, other legislation complementing the contents of this law was approved, among which **Decree 11/2006 of 15 July**, approving the **Environmental Inspection Regulation** (*Regulamento sobre a Inspeção Ambiental*), which regulates the supervision, control and monitoring of compliance with de environmental protection standards at national level and defines the procedures to be adhered to. MICOA is in charge of environmental inspection, which can be ordinary or extraordinary; and Decree 45/2004 of 29 September, with the changes introduced by Decree 42/2008 of 8 November, approving the **Regulation for the Environmental Impact Assessment Process** (*Regulamento sobre o Processo de Avaliação do Impacto Ambiental*), which establishes the procedures and conditions for environmental licensing and classifies the activities in categories (A, B and C), depending on the impacts they may cause on the environment, consequently stipulating the need for an environmental impact study, a simplified environmental study or exemption from an environmental study, while the basic

<sup>384</sup> Environment Law, Article 26.

environmental management standards must respectively be complied with. The competency in this respect is attributed to MICOA and its Provincial Directorates.

### 3.3. THE LAND LAW AND ITS REGULATIONS

For many tourism developments, obtaining the right to use land is essential. Therefore, an understanding of Mozambique's land legislation is often essential for those planning to invest in tourism.

The Mozambican Constitution establishes the following principles in respect of land<sup>385</sup>:

- Land in Mozambique is property of the State.
- It may not be sold, mortgaged or otherwise alienated.
- As a universal mean for the creation of wealth and social well-being, the use and enjoyment of land shall be the right of all the Mozambican people.
- The right to use and enjoy land is conferred by the State, and conditions for such use are determined by the State.

The land use right conferred by the State through the Land Law is known as the "*Direito de Uso e Aproveitamento de Terra*" or "DUAT". In English this is translated as the Right of Use and Enjoyment of the Land. A DUAT can be acquired in the following ways:

- *By original acquisition:*
  - a) According to customary norms and practices – only Mozambican citizens and local communities.
  - b) According to occupation by good faith for at least 10 years – only Mozambican citizens.
  - c) By authorisation of an application submitted to the State – national or foreign natural and legal persons.
- *By derived acquisition: mortis causa or inter vivos transfer*, in this latter case, as a result of the transfer of goods or improvements developed on the land.

The competences for authorising DUATs, the procedures to follow and the fees due may vary depending on whether the intended land is situated in a municipal area (urban area) or outside these areas (rural areas).

The Land Law, resorting to the principle of public domain enshrined in the CRM, classifies certain areas as total and partial protection zones, integrating them in the scope of the State's public domain. This law also indicates which areas constitute total and partial protection zones. Total Protection Zones include areas set aside for the preservation of nature and areas of importance for national defence. Partial Protection Zones include areas around public infrastructures and water resources.

In the total and partial protection zones DUATs cannot be acquired. However, special licenses may be acquired for the exercise of certain activities.

*For a detailed examination of this complex subject please consult the manual of this series entitled "The Legal Framework for Acquiring Land Rights in Mozambique", available at [www.acismoz.com](http://www.acismoz.com).*

<sup>385</sup> Constitution of the Republic, Articles 109 and 110.

### 3.4. LEGISLATION ON PUBLIC HEALTH AND MINORS

#### 3.4.1. *Public Health and Hygiene of Food Establishments*

Several health-related regulations apply to activities in the tourist industry. **Decree 5/80 of 22 October** requires that all employees engaged in the preparation and handling of food, or who deal with children as part of their work, must have a health certificate ("*boletim de sanidade*")<sup>386</sup>.

On the other hand, **Decree 15/2006 of 22 June** provides health-related requirements for the production, transport, sale and inspection of food-related items.

While generally both pieces of legislation refer to the manufacture of food they are also held to apply to the preparation of food in any type of public kitchen and Decree 15/2006 also allows for the possibility anyone infringing that legislation being found criminally liable<sup>387</sup>.

**Decree 11/2007 of 30 May** introduced anti-smoking legislation in Mozambique. The Regulation has a number of requirements in respect of public places including bars and restaurants. This Decree must be taken into consideration when preparing plans for a tourism establishment since smoking and non-smoking areas must be clearly identified on such plans.

Each of these decrees is enforced by the Ministry of Health through its local representatives in the form of the Hygiene, Environment and Medical Examinations Centres (*Centros de Higiene, Ambiente e Exames Médicos - "CHAEM"*), a 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 employees. CHAEM can inspect company premises at any time. The fines for non-compliance with each decree are high.

It is also noted that the Tourism Regulation establishes as infractions in the area of sanitation, hygiene and cleaning, among others:

- a) Food not adequately protected or preserved or exceeding the use-by date;
- b) Smoking or eating in the area where food is handled or prepared;
- c) Handling or preparing food without proper and complete outfit;
- d) Accumulation of debris and waste;
- e) Poor state of maintenance and cleaning of the installations, equipment and utensils;
- f) Infestation by rodents or insects.

#### 3.4.2. *Minors*

The trafficking and prostitution of minors have been one of the most recurrent concerns in the tourism activity, and therefore the legislation provides for rules with respect to these issues.

<sup>386</sup> Decree 5/80 of 22 October, Article 1.

<sup>387</sup> Decree 15/2006 of 22 June, Chapter III.

Under the Tourism Law the practice of child sex tourism, whether as a supplier of tourism products or services, or as a tourist and consumer, is considered a criminal offence punishable under the criminal law. The practice of child sex tourism includes pimping, pimping of minors and the corruption of minors<sup>388</sup>.

**Law 6/99 of 2 February**, the Law on Access of Minors to Places of Nocturnal Entertainment (*Lei sobre o Acesso de Menores a Recintos de Diversão Nocturna*) and its Regulation, approved by Decree **35/2002 of 5 December**, establish specific rules with respect to the access of minors to public places of nocturnal entertainment, video games and the sale and consumption of alcohol and tobacco.

Under the above-mentioned legislation the entrance and stay of minors under 18 years in cabarets, night clubs and similar places related to the hotel or tourism industry is prohibited. The sale of alcohol and tobacco is also prohibited.

### 3.4.3. Construction Regulation

Knowledge about the Mozambican legislation on construction is often essential for those intending to invest in the tourism sector, considering that in many cases it is necessary to build a tourism development.

Private works for the construction, reconstruction, enlargement, alteration, and demolition of buildings are subject to licensing. In general, the local authorities or district administrations are competent for licensing. However, in the case of large industrial, commercial and tourism buildings the Minister supervising the activity must be heard.

In addition, note that the activity of public works and civil works contractors is also subject to licensing, under the **Regulation on the Business of Civil Works' Contractors and Consultants** (*Regulamento do Exercício da Actividade de Empreiteiro e de Consultor de Construção Civil*), approved by Decree 94/2013 of 31 December and other complementary legislation.

Construction contractors must be licensed by the Ministry of Public Works. Contractors are divided into two categories: those licensed to execute public works and those licensed to execute civil works. Civil works contractors must be part of a legally incorporated company or trade delegation and specifically licensed in Mozambique to execute construction works.

*For a detailed examination of this complex subject please consult the manual of this series entitled - "The Legal Framework for Construction in Mozambique", available at [www.acismoz.com](http://www.acismoz.com).*

## 3.5. INVESTMENT LAW AND ITS REGULATION – TAX BENEFITS FOR TOURISM PROJECTS

The legal regime on investment in Mozambique is regulated under the Investment Law (*Lei de Investimentos*), approved by Law 3/93 of 24 June, and its Regulation, approved by Decree 43/2009 of 21 August, in which the fundamental legal framework is defined for investments in Mozambique, whether by national or foreign entities.

The legislation on investment currently in force is based on the principle of equal treatment of national and foreign investors, both having the same rights, duties and obligations. This principle of equal treatment may not apply in cases of projects or activities by nationals

<sup>388</sup> Tourism Law, Article 26.

which by their nature or scale of investment and development may merit special treatment and support from the Mozambican State.

Under the Investment Law there are three distinct forms of investment in Mozambique, namely: (i) foreign direct investment<sup>389</sup>; (ii) national direct investment;<sup>390</sup> and (iii) indirect investment<sup>391</sup>.

Under the Investment Law Regulation, the minimum value of foreign direct investment is set at a value equivalent to 2,500,000.00 MT (two million five hundred thousand Meticaís). In these terms, being satisfied the above-mentioned minimum investment required, the Mozambican State guarantees, according to conditions to be set in the respective terms of authorisation, the external remittance of profits, as well as the repatriation of the invested capital, among other values.

An investment authorisation is obtained through the Investment Promotion Centre (*Centro de Promoção de Investimentos* – CPI), which coordinates the authorisation by the competent authority. The competent authority varies according to the value of the investment in question, as well as the natural resources of the country the project may need.

The Investment Law Regulation provides for the possibility of the Council of Ministers creating special economic zones, including integrated tourism development zones, as well as industrial free zones.

On the other hand, the Code of Fiscal Benefits (*Código de Benefícios Fiscais*), approved by Law 4/2009 of 12 January, and its Regulation, approved by Decree 56/2009 of 7 October, establish a few customs and fiscal benefits applicable to the tourism activity. These benefits include<sup>392</sup>:

- a) Exemption from payment of customs duties and VAT on the import of equipment classified as class "K" in the Customs Tariff Schedule (*Pauta Aduaneira*) as well as the goods considered to be indispensable for the conduct of the activity, including construction materials (except cement, blocks, bricks, paint and varnish), rugs and carpets, kitchen equipment, computer and sound equipment;
- b) Tax credit during 5 tax years, from a deduction equal to 5% of the total investment made from the collection of IRPC in Maputo City, and 10% in the other provinces;
- c) Accelerated depreciation and reintegration; and
- d) Reduction of excise duty and contribution rates.

<sup>389</sup> *Foreign direct investment* consists of any form of foreign capital contribution valuable in monetary terms which constitutes own equity capital or resources at the own account and risk of the foreign investor, brought from external sources and to be used in an investment project for carrying out an economic activity, through a company registered in Mozambique.

<sup>390</sup> *National direct investment* consists of any form of contribution of national capital valuable in monetary terms which constitutes own equity capital or resources at the own account and risk of the national investor destined for use in an investment project for carrying out an economic activity, through a company registered in Mozambique and operating from Mozambican territory.

<sup>391</sup> *Indirect investment* consists of any form of investment whose remuneration and/or repayment does not exclusively consist of the direct participation of its contributors in the distribution of profits resulting from the operation of activities in projects in which specific forms of investment, namely, loans, shareholder loans, additional supplies of capital, patented technologies, technical processes, industrial models and secrets, franchising, registered trademarks, technical assistance and other forms of access to their use, whether under exclusivity or a licensing arrangement restricted to a geographic zone or to a commercial and/or industrial activity area.

<sup>392</sup> Code of Fiscal Benefits, Article 31 to 33.

### 3.6. IMMIGRATION LEGISLATION

The norms applicable to immigration in Mozambique are governed by **Law 5/93 of 28 December** and its Regulation approved by **Decree 38/2006 of 27 September**. In addition, specific aspects of the legislation are governed by other legal instruments, such as Decree 38/2006 of 27 September, approving the Regulation on the Legal Standards Applicable to Foreign Citizens, Relative to their Entry into, Stay in and Departure from the Country (*Regulamento sobre as Normas Jurídicas Aplicáveis ao Cidadão Estrangeiro, Relativos à Entrada, Permanência e Saída do País*, hereafter the **Immigration Regulation**).

Foreign citizens must be in possession of a legally valid passport or other legally recognised travel document, and must hold a visa or other document allowing them to enter, stay in and leave the country. Depending on the objective of the trip, various types of visa can be issued, such as a tourism visa, a work visa or a business visa.

In addition to the immigration formalities which must be completed by tourists entering and leaving Mozambique, tourism operators are required to report regularly to the Immigration Service about foreigners staying in their establishments.

Hotels, motels, camp sites, guesthouses and similar establishments as well as other places that provide lodgings to foreign citizens, or rent, sublet or cede in any way accommodation to a foreigner have the duty to communicate that fact to the Immigration Services within five days using an “individual accommodation bulletin” (*“boletim individual de alojamento”*), or when Immigration Services are not available, to the police or the local administration. The permanent departure of foreign guests or visitors must also be communicated to the authorities using the *boletim individual de alojamento*, within 5 days of their departure<sup>393</sup>.

The *boletim individual de alojamento* must contain, without initials or abbreviations, the full name of the foreigner, his/her marital status, profession, place of birth, nationality, date of birth, and the place of provenance and onward destination. The *boletim individual de alojamento* may be replaced by lists or computerized reports. Electronically produced lists or information must contain the same data as listed above<sup>394</sup>.

*For further details about specific requirements for tourists entering and leaving Mozambique including about types of visas and costs, please consult the manual of this series entitled “Legal Framework for Immigration” available at [www.acismoz.com](http://www.acismoz.com).*

<sup>393</sup> Immigration Regulation, Articles 32 and 33.

<sup>394</sup> Immigration Regulation, Article 32 and 33.

## 4. INFRACTIONS AND PENALTIES

### 4.1. INFRACTIONS UNDER THE TOURISM LAW AND REGULATION

The Tourism Law provides for the following sanctions to be applied in the case of any infraction of this legislation<sup>395</sup>:

- Warning;
- Fine;
- Temporary suspension of activity;
- Closure of the establishment;
- Revocation of license;
- Administrative embargo;
- Demolition.

The sanctions are graduated according to the severity of the offence and whether it is a re-incident.

For its part, the Tourism Regulation establishes the following infractions and penalties:

Infraction	Penalty	Fine (MT)
Illegal construction in inappropriate location	Demolition	50,000.00 to 100,000.00
Illegal construction in appropriate location	Embargo	20,000.00 to 50,000.00
Operating without <i>alvará</i>		30,000.00 to 80,000.00
Illegal change of activities		20,000.00 to 50,000.00
Complaints book		10,000.00 to 20,000.00
Use of unauthorized name for the premises – tourism accommodation		20,000.00
Use of unauthorized name for the premises – eating/drinking establishment		15,000.00
Practice of not approved prices or prices in foreign currency		30,000.00 to 50,000.00
Violation of health & safety, food hygiene and cleanliness requirements		20,000.00 to 50,000.00
Accumulation of violations of health & safety, food hygiene and cleanliness requirements	Suspension for up to six months	20,000.00 to 50,000.00
Violation of safety and fire safety requirements		30,000.00 to 50,000.00
Repeat occurrences of any infraction which puts users of the premises at risk	Closure	
Violation of the rights and responsibilities provided in the Tourism Law		30,000.00 to 50,000.00
Other infractions under the tourism legislation		15,000.00 to 30,000.00

<sup>395</sup> Tourism Law, Article 24.

## 4.2. INFRACTIONS UNDER OTHER REGULATIONS

The other legislation discussed in this manual generally follows the structure for the Tourism Regulation, in respect of time periods for payment of fines, re-incidence and so on. There follow a number of specific fines mentioned<sup>396</sup>:

Infraction	Fine (MT)	Additional Penalty
<b>Regulation on Travel and Tourism Agencies and Tourism Information Professionals</b>		
Undertaking activities of a tourism information professional without a license	15,000.00 to 40,000.00	Civil and criminal liability, if applicable.
Undertaking activities of travel and tourism agency without license	150,000.00 to 500,000.00	Civil and criminal liability
Other penalties not specifically mentioned	3,500.00 to 10,000.00	Other fines are listed in Annex VI to this Regulation and range from 2,500.00 to 10,000.00 MT.
<b>Tourism Entertainment Regulation</b>		
a) Exercise of the activity without a license; b) Lack of communication of the transfer of equipment and the transfer of the exploitation of the activity; c) Lack of a complaints book; d) Lack of a financial guarantee/insurance.	Fines to be established by MITUR and the Ministry of Finance	a) Prohibition of the exercise of the activity; b) Suspension of the authorisation and closure of the establishment; c) Suspension of the license.
<b>Tourism Transport Regulation</b>		
a) Exercise of the tourism transport activity without a license; b) Lack of deposit of a document proving the financial guarantee and insurance; c) Other infractions referred to in the Regulation	5,000.00 to 100,000.00	Suspension or revocation of the <i>alvará</i> .
<b>Amateur Diving Regulation</b>		
Exercise of the activity of diving or amateur diving centres or schools	<ul style="list-style-type: none"> <li>• Reprimand;</li> <li>• Fines of 5 to 20 minimum civil service wages, in the case of individuals);</li> <li>• Fine of 20 to 70</li> </ul>	

<sup>396</sup> We should take into account that in this section only some infractions established by the applicable legislation were included. Other infractions under the law must however also be considered.



	<p>minimum civil service wages in the case of centres and schools;</p> <ul style="list-style-type: none"> <li>• Seizure of equipment;</li> <li>• Suspension for 6 months;</li> <li>• Suspension of the license for 12 months;</li> <li>• Revocation of the license;</li> <li>• Definitive prohibition.</li> </ul>	
<b>Periodic Occupation Regulation</b>		
<ul style="list-style-type: none"> <li>• Exploitation without a license;</li> <li>• Exploitation in an establishment of less than 3-star rating;</li> <li>• Less than 30% of overall occupancy dedicated to tourism;</li> <li>• Undertaking activities outside a registered tourism establishment;</li> <li>• Construction on unauthorized site.</li> </ul>	100,000.00 to 300,000.00.	Suspension, embargo, cancellation of license, seizure of equipment and demolition.
<ul style="list-style-type: none"> <li>• Use of water outside the public network, when not approved by the health authorities;</li> <li>• Suppression of the siphons;</li> <li>• Accumulation of rubbish;</li> <li>• Lack of bins or bins without lids;</li> <li>• Storage of crockery and kitchen equipment in unhygienic conditions;</li> <li>• Lack of cleanliness in the kitchen;</li> <li>• Rusty kitchen implements;</li> <li>• Cracked or broken crockery;</li> <li>• Lack of light or ventilation;</li> <li>• Lack of extraction equipment for smoke, etc.;</li> <li>• Infestations of rodents or insects;</li> </ul>	50,000.00 to 200,000.00.	Suspension, embargo, cancellation of license, seizure of equipment and demolition.

<ul style="list-style-type: none"> <li>• Lack of disposable towels etc. in bathrooms;</li> <li>• Non-functioning cisterns.</li> </ul>		
<ul style="list-style-type: none"> <li>• Sale of rights which have not been properly legally constituted</li> <li>• Non-return of deposits</li> <li>• Violation of any of the legally established rights of right-holders</li> <li>• Lack of constitution of reserve funds</li> <li>• Lack of guarantees and insurance</li> <li>• False advertising</li> <li>• Not providing correct and adequate information</li> <li>• Not maintaining the property.</li> </ul>	75,000.00 to 250,000.00.	Suspension, embargo, cancellation of license, seizure of equipment and demolition.
<b>Marine Environment Regulation</b>		
Lack of display of the list of infractions and sanctions for those causing damage to the marine environment	20,000.00.	

## 5. FAQs

### 5.1. *Most frequently asked questions by investors to DINATUR*

According to information provided by DINATUR in the 3 December 2014 meeting, this institution make clarifications for the questions investors may have regarding the tourism legislation and provide a summary of the requirements in order to facilitate the understanding.

The experience reported by the institution is that investors have mostly complained about the slow process of the acquisition of a DUAT from the competent authorities, as well as the costs involved in the process, especially the “unofficial costs”. In addition, investors have had difficulties to understand why, after a long process and all costs involved, the DUAT obtained is only provisional.

With regard to these aspects, it appears relevant to recall what was mentioned above, namely:

- One should keep a stamped copy of all correspondence with the competent authorities;
- One should ask for a receipt of all payments made;
- An investor can always question the legal basis of the payments that are required from him;
- In addition to the amounts of the authorisation fee for the provisional and definitive DUAT, and the annual fee for the DUAT (in areas outside municipal areas) and urbanization fees (in municipal areas), there are several other fees and costs involved in the process of obtaining a DUAT that are listed, among which, for example, fees for issuing the location sketch maps, allowances for the travel of technicians to pay a preliminary visit to the site (which varies according to the category of the technician, the number of technicians necessary, the size of the area, the distance, among other aspects), allowances for the travel of technicians for public consultations, fees for the demarcation of the plot, among other official fees. On the other hand and especially in rural areas, it is possible that according to specific cultural practices of the communities involved, financing is requested for the purchase of a sacrifice animal, purchase of wine for ceremonies, among others. These are unofficial costs. It is important to distinguish these situations from possible acts of corruption.
- A DUAT is initially granted through a provisional authorisation, which will have a duration of 2 years for foreign citizens or majority foreign owned companies, and of 5 years for Mozambican citizens or companies with majority national shareholding. This period is used by the competent authorities to ensure that the applicant will indeed implement the authorised project. Nevertheless, any difficulties in finalizing the business plan within the period granted can be communicated to the competent authority for the purpose of extension of the provisional authorisation term and, as soon as the plan is implemented and this is confirmed by the *vistoria* of the Cadastre Service, the definitive DUAT (valid for 50 years renewable) is guaranteed.
- On the other hand, depending on the area, before starting the implementation of a project it may be necessary to follow an environmental licensing and population

resettlement procedure. These procedures may involve high costs, depending on the size of the area applied for, its location, the kind of activity involved, the level of current occupation in the area, among other aspects.

*Once again, we recall that this subject and practical advice for it are dealt with in detail in our manual in this series, entitled "The Legal Framework for Acquiring Land Rights in Rural Areas in Mozambique", available at [www.acismoz.com](http://www.acismoz.com).*

5.2. *What is the difference between a special license and an operating license or alvará?*

As confirmed by DINATUR in the 3 December 2014 meeting, a special license is issued for performing certain activities in areas for which a DUAT cannot be issued (total protection areas and partial protection areas), while an operating license or *alvará* is the authorisation by the competent Government/sectoral authority for the exercise of a certain activity.

An *alvará* cannot be obtained to undertake an activity in an area for which the applicant does not hold any type of right – DUAT, special license, assignment of exploitation of a DUAT, lease of buildings, among other documents confirming the legitimacy for the application in question.

5.3. *Who issues special licenses in total protection areas, specifically in nature conservation areas, MINAG or MITUR?*

The question about this issue arises because the Land Law stipulates, in its Article 22, paragraph 2, clause b), that the Minister of Agriculture is competent to authorise special licenses in total protection areas. Nevertheless, these areas previously supervised by MINAG were transferred through the Presidential Decree 9/2000 of 23 May, and the subsequent Ministerial Diploma 17/2001 of 7 February, to MITUR supervision. Presidential Decree 9/2000 stipulates in its Article 3, paragraph 2, clause b) that MITUR is competent to license, supervise and monitor the exploitation of the conservation areas under its management.

Nevertheless, as the competence of the Minister of Agriculture has not been revoked (whether explicitly or implicitly, given that this could only occur through a law, i.e., a legal instrument of the same hierarchy), we understand that the Minister of Agriculture continues with competence to issue special licenses, and the necessary licenses to operate in these areas must be obtained from MITUR, which will also monitor/supervise the implementation of the activity in question.

Therefore, and as there is doubt regarding this issue, we recommend to copy the two ministries appropriately in the applications submitted and in any other correspondence about activities in conservation areas.

5.4. *Article 26 of the Tourism Regulation stipulates that the minimum accommodation capacity in guesthouses is 3 rooms with a maximum of 10 rooms. However, Article 172 of the same Regulation stipulates that the maximum accommodation capacity in guesthouses is free. Which rule is correct?*

Article 1, paragraph 7, of the Tourism Regulation defines a "Guesthouse" as a "Tourist accommodation establishment integrated or not into family dwellings, containing common

*areas, serving breakfast and optionally also lunch and dinner.” Article 7, paragraph 1, clause j) stipulates that a guesthouse may have 1 to 4 stars.*

Article 26, paragraph 3, of the Tourism Regulation stipulates that *“For guesthouses the minimum accommodation capacity is three rooms and the maximum is ten rooms; however, the respective rooms may have or not private bathrooms and, at least, a suite.”*

Article 172, paragraph 2, stipulates on the contrary that *“The minimum accommodation capacity of a guesthouse is 3 rooms while there is no maximum limit; and the respective rooms may have private bathrooms and a suite.”*

According to a clarification obtained from DINATUR in the 3 December 2014 meeting, Article 26 and Article 172 deal with requirements for different tourism developments. Namely, while Article 26 deals with requirements for private lodging and rental of rooms for tourism purposes (which are developments with a single classification), Article 172 deals with the requirements for guesthouses (which are relatively larger developments with a 4 to 1 star classification).

Nevertheless, as we can see from the transcript of the relevant legal provisions, the explanation obtained from the competent authorities is not clear from the law. The law is contradictory.

Considering that the Tourism Regulation is a dense document and in some aspects sometimes repetitive, other cases of contradictions, omissions, little clarity, references to non-existent paragraphs or articles, among others, can be found. In these situations, we recommend to approach the competent authority to obtain proper clarification and, whenever the aspect in question is fundamental for the project in question, to consider obtaining clarifications in writing.

- 5.5. *When the tourism legislation refers to the minimum wage without specifying the sector, which rule should we take into account?*

According to the guidance obtained from DINATUR in the 3 December 2014 meeting, in cases in which the relevant law does not specify the sector to be referred to for determining the minimum wage to be considered (e.g., for the calculation of guarantees, fines, etc.), the minimum wage in force in the public sector (*“função pública”*) is taken into account.

- 5.6. *The Tourism Regulation withdrew the deadline for starting works after the approval of an executive project in an existing building. Does this imply that the works can start at any moment or that the authorisation to be given to the applicant will specify the deadline to be taken into account?*

According to the clarification obtained from DINATUR in the 3 December 2014 meeting, in the case of tourism developments in an already existing building the same term has been attributed as the Tourism Regulation sets for new developments, namely, a term of 6 months. However, they also said that, in general, the term within which the applicant must start the works has not been indicated in the notice of approval of the executive project, which only mentions that *“the investor shall start the works within the time limit set by the Regulation”*. As such a

time limit does not exist in the Regulation, as indicated here, this fact can create doubts and lead to some confusion.

We understand that this aspect needs a more objective treatment on the part of the competent authority. Nevertheless, while it remains unclear if the intention of the legislator was indeed not to subject works in an existing building to a deadline, we recommend by analogy to take into account the time limit indicated for new builds. On the other hand, the applicant should also pay attention to the conditions and period of validity set in the construction license that has been obtained from the competent authority for this purpose.

- 5.7. *ANAC was also created for the purpose of articulation between sectors. Nevertheless, the legislation is not clear about the question if this entity should assume the application procedures for a license for activities in conservation areas. Should one in practice continue to submit the application to the competent licensing authority and will this one obtain the opinions and take care of the necessary articulation?*

According to clarifications obtained from DINATUR in the 3 December 2014 meeting, MITUR and the other entities specified in the law are competent for the licensing procedures for tourism activities, including in conservation areas. Regarding ANAC's licensing competences, there is an understanding that these refer to a few specific activities related to conservation areas, such as sport hunting, the exploitation of ecological road maps, among other activities. On the other hand, it is understood that, since ANAC contributes to the building of tourism developments, the attribution of competence to this entity for the respective licensing would to some extent contribute to the existence of a conflict of interests, since this entity would appear to be the requesting entity and in the same process the licensing authority.

What we understand is that there is still not much clarity about the effective role to be played by ANAC with respect to conservation areas. MITUR and other entities indicated in the Tourism Regulation are the competent authorities for licensing the activities referred to in this Regulation. ANAC will only license activities explicitly transferred to its jurisdiction. We understand that intersectoral coordination still is a challenge and the specific implementation mechanisms must still be better defined and clarified.

*About this subject, we suggest that the reader consults our manual in this series, and the accompanying discussion report, on conservation areas, ANAC's competences and other challenges brought by the Conservation Policy, the Conservation Law and other complementary legislation, to be made available soon at [www.acismoz.com](http://www.acismoz.com).*

## 6. MAIN LEGISLATION CONSULTED

The legislation consulted is mentioned throughout the text. For easy reference, below we list the main legislation used for the preparation of this manual:

- Constitution of the Republic of Mozambique, 2004;
- Law 16/2014 of 20 June, approving the Conservation Law;
- Law 1/2010 of 10 February, approving the Gambling Law;
- Law 4/2009 of 12 January, approving the Code of Fiscal Benefits;
- Law 19/2007 of 18 July, approving the Territorial Planning Law;
- Law 4/2004 of 17 June, approving the Tourism Law;
- Law 10/99 of 7 July, approving the Forestry and Wildlife Law;
- Law 6/99 of 2 February 1999, approving the Law on Access of Minors to Places of Nocturnal Entertainment;
- Law 19/97 of 1 October, approving the Land Law;
- Law 20/97 of 1 October, with the changes introduced by Law 16/2014 of 20 June, approving the Environment Law;
- Law 5/93 of 28 December, with the changes introduced by Decree 62/2014 of 24 May, establishing the legal standards applicable to foreign citizens, relative to their entry into, stay in and departure from the country, their rights, obligations and guarantees;
- Law 3/93 of 24 June, approving the Investment Law;
- Decree-Law 47 3443 of 25 November 1967, with the changes introduced by Law 5/2006 of 23 August, approving the Civil Code;
- Decree 49/2014 of 22 September, approving the Amateur Diving Regulation;
- Decree 97/2013 of 31 December, approving the Regulation for Tourism Enterprises, Restaurants, Drinking Establishments and Dance Halls;
- Decree 85/2013 of 31 December, redefining the aims, powers and organs of the National Tourism Institute (INATUR);
- Decree 80/2013 of 31 December 2013, approving the single form of the constitution, registration and licensing of companies, the attribution of NUIT, as well as the declaration of the commencement of operations, and the registration of workers in the Social Security System;
- Decree 64/2010 of 31 December, approving the Gambling Law Regulation;
- Decree 77/2009 of 15 December, approving the Regulation on Tourism Interest Zones;
- Decree 56/2009 of 07 October, approving the Code of Fiscal Benefits Regulation;
- Decree 43/2009 of 21 August, approving the Investment Law Regulation;
- Decree 46/2009 of 19 August, creating the National Inspectorate for Economic Activities;
- Decree 88/2009 of 31 December, approving the Ecotourism Regulation;
- Decree 23/2008 of 01 July, approving the Territorial Planning Law Regulation;

- Decree 36/2008 of 17 September, with the changes introduced by Decree 52/2010 of 15 November, creating INATUR and approving the respective statutes;
- Decree 39/2007 of 24 August, approving the Periodic Occupation Regulation;
- Decree 40/2007 of 24 August 2007, approving the Tourism Entertainment Regulation;
- Decree 41/2007 of 24 August 2007, approving the Tourism Transport Regulation;
- Decree 11/2007 of 30 May, approving the Tobacco Consumption and Commercialization Regulation;
- Decree 45/2006 of 30 November, approving the Regulation for the Prevention of Pollution and the Protection of the Marine and Coastal Environment;
- Decree 38/2006 of 27 September, approving the Regulation for the Legal Standards Applicable to Foreign Citizens, Relative to their Entry into, Stay in and Departure from the Country;
- Decree 15/2006 of 22 June, approving the Regulation for the Health and Hygiene Requirements of the Production, Transport, Commercialization, Inspection and Control of Foodstuffs;
- Decree 41/2005 of 30 August, approving the Regulation for Travel and Tourism Agencies and Tourism Information Professionals;
- Decree 45/2004 of 29 September, with the changes introduced by Decree 42/2008 of 4 November, approving the Environmental Impact Assessment Process Regulation;
- Decree 30/2001 of 15 October, with the changes introduced by Decree 16/2012 of 14 August, approving the Operating Standards of the Government Services;
- Decree 66/98 of 8 December, approving the Land Law Regulation;
- Decree 5/80 of 22 October, Regulating the Obligation of Workers of Various Professional Activities to Obtain and Carry a Health Certificate;
- Presidential Decree 8/2010 of 23 November, relating to the powers of the Ministry of Tourism;
- Ministerial Diploma 76/2010 of 15 April, the Rules of Procedure of MICOA;
- Ministerial Diploma 244/2009 of 4 November of 2009, Approving the Table of Financial Guarantees to be Provided for Periodic Occupation Developments;
- Resolution 45/2006 of 26 December, the Tourism Marketing Strategy 2006-2013;
- Resolution 14/2003 of 4 April, the National Tourism Policy and Implementation Strategy.



## 7. ANNEXES

### 7.1. APIT CLASSIFICATIONS

According to information provided by DINATUR in the 3 December 2014 meeting, the Priority Tourism Investment Areas (“APITs”) established by the Tourism Marketing Strategy 2006/2013, approved by Resolution 45/2006 of 26 December, are still in force, with a few changes, specifically regarding the classification of some zones in each type of APIT. These changes are the result of the development occurred in the respective zone. For example, it is noted that certain zones now classified as Type A/B APITs (existing destinations with limited development) were upgraded to category A (existing destinations “with significant infrastructures”). A review and updating of the Tourism Marketing Strategy is currently ongoing and will also include an updating of the tourism routes.

Accordingly, below we reproduce the APITs, as provided in the 2006 – 2013 Tourism Marketing Strategy (*Estratégia de Marketing do Turismo 2006-2013*, Resolution 45/2006 of 26 December):

Zone	Name	Key Products	Market Segments
A	Greater Maputo (Maputo City, Marracuene, Inhaca)	Urban and business tourism, Sun, sea & sand Culture Ecotourism / safari	National, regional and international business, International transit & leisure International and local families & friends
A	Inhambane Coast (Inharrime – Massinga)	Sun, sea & sand Water sports Bird watching Culture	Domestic, regional & international leisure Special interests Backpackers
A	Vilanculos/Bazaruto (Including the archipelago and coast to Inhassoro)	Coastal eco-tourism Sun, sea & sand Water sports	International and regional leisure
A/B	Elephant Coast (Catembe – Ponta do Ouro)	Coastal eco-tourism Sun, sea & sand Water sports Safari Whale watching	Domestic, regional & (high end niche) international leisure
A/B	Xai Xai coast (Bilene – Chidenguele)	Sun, sea & sand Water sports Culture	Domestic & regional leisure
A/B	Sofala tourism area (Beira, Savana)	Urban tourism Sun, sea & sand Culture Eco-tourism	Domestic and regional business and leisure
A/B	Ilha de Moçambique/Nacala (Mocambo – Memba)	Culture Sun, sea & sand Water sports	International niche leisure Regional leisure
A/B	Pemba/Quirimbas (Pemba – Matembo including marine national park)	Sun, sea & sand Water sports Culture Eco-tourism	International niche leisure Regional leisure
B	Limpopo – Massingir (Massingir town and dam and part of Limpopo Park)	Eco-tourism Adventure Special interests Water sports Culture	Domestic and regional leisure and family & friends, international leisure, niche eco-tourism

B	Limpopo – Mapai (Limpopo National Park)	Eco-tourism Adventure Special interests	Domestic, regional and international leisure Niche eco-tourism
B	Gorongosa tourism area (Park and mountain)	Eco-tourism Bird watching Hunting	International and domestic leisure Eco-tourism
B	Manica tourism area (Manica, Chicamba and part of Chimanimani reserve)	Eco-tourism Adventure Special interests Culture	Backpackers, overlanders Niche eco-tourism
B	Cahora Bassa tourism area (Songo, dam and Tchuma Tchato tourism community)	Eco-tourism Adventure Special interests Culture Hunting	Backpackers, overlanders Niche eco-tourism Special interests
B	Gilé/Pebane (Gilé reserve and Pebane coastal area)	Eco-tourism Sun, sea & sand Culture Special interests Thermal springs	Domestic leisure International niche
B	Gurué tourism area	Adventure Eco-tourism Culture	Domestic leisure International & regional leisure niche
B	Northern Cabo Delgado (Palma – Tanzanian border)	Sun, sea & sand Water sports Culture	International & regional leisure Special interests
B	Lake Niassa (including the shore and Manda Wilderness)	Eco-tourism Water sports Hunting	International & regional leisure Special interests
B	Niassa Reserve (and surrounding wildlife areas)	Eco-tourism Culture Special interests	International niche eco-tourism

## 7.2. SUMMARY OF TOURISM ROUTES

According to information obtained from DINATUR in the 3 December 2014 meeting, though the Tourism Marketing Strategy refers to the years 2006/2013, the Tourism Routes established by it are still in force, without prejudice to the currently ongoing review and updating, as mentioned in the previous section.

Accordingly, below we reproduce the Tourism Routes, as provided in the 2006 – 2013 Tourism Marketing Strategy (*Estratégia de Marketing do Turismo 2006-2013*, Resolution 45/2006 of 26 December):

Zone	Route	Attractions
South	<b>Libombos Circuit</b> – Kosi Bay & St. Lucia – Ponta do Ouro – Maputo Special Reserve – Maputo – Namaacha - Swaziland	Combining, beach, wilderness, culture, history, water sports, cultural diversity and scenic beauty
South	<b>Lake Coast Route</b> – Ponta do Ouro – Maputo Elephant Reserve – Maputo – Xai Xai – Inhambane - Vilanculos	Eco-tourism, scenic beauty, beach, water sports, varieties of scenery and wildlife on land and sea
South	<b>Greater Limpopo Bush/beach Circuit</b> – Nelspruit – Kruger Park – Limpopo – Vilanculos – Bazaruto – Inhambane – Xai Xai – Bilene - Maputo	Wildlife, culture and beach, a dream holiday for international tourists combining the best of wildlife and beaches
South	<b>Limpopo Route</b> – Maputo – Bilene – Chokwe – Massingir – Kruger National Park – Malelane - Maputo	Circular route which consolidates the benefits of the Greater Limpopo Circuit
Centre	<b>Mozambique/Zimbabwe Adventure Route</b> – Inhambane – Vilanculos – Gorongosa Park – Chicamba Dam – Manica – Chimanimani - Zimbabwe	Designed for backpackers and adventure travellers
Centre	<b>Mozambique/Malawi Adventure Route</b> - Inhambane – Vilanculos – Gorongosa Park – Chicamba Dam – Tchumo Tchato - Malawi	Designed for backpackers and adventure travellers
Centre	<b>Central Eco-tourism Route</b> – Beira – Marromeu Reserve – Gorongosa Mountain – Chimoio – Chimanimani – Chicamba Dam – Manica - Beira	Circular route with opportunities for bird-watching and hiking
Centre	<b>Lake Route</b> – Beira – Chicamba Dam – Chimoio – Tete – Cahora Bassa – Malawi (Entre Lagos)	Combines the great lakes and dams of the region
North	<b>Coast &amp; Culture Route</b> – Nampula/Nacala – Ilha de Moçambique – Pemba - Quirimbas	Combining culture and the coast
North	<b>Swahili Coast</b> – Zanzibar – Pemba (Tanzania) – Mtwara – Mocimba da Praia – Quirimbas – Pemba - Nacala	An area rich in culture and history, beautiful coast, water sports activities
North	<b>Lake to Coast</b> – Pemba – Quirimbas – Niassa Reserve – Lake Niassa	Combining coast, culture, wildlife and the freshwater attractions of Lake Niassa
North	<b>Northern Discovery</b> – Ilha de Moçambique – Nacala Corridor – Nampula – Gurué – Cuamba – Lichinga – Metangula – Niassa Reserve – Palma – Quirimbas – Pemba - Nacala	Culture, wilderness and beaches

### 7.3. MODEL PRICE LIST

Model price lists are provided in Annexes VII and VIII of the Tourism Regulation<sup>397</sup>. These price lists are issued by MITUR in the form of a certificate which must be displayed, and are based on the information given to them by the operators, as discussed above. Price lists must be publicly displayed, and if not the establishment is subject to a fine. Prices stated must include all taxes.

*i. Accommodation Price List:*

[Logo of the Republic of Mozambique]  
(Licensing Authority)

a) .....

#### ACCOMODATION PRICE LIST/ TABELA DE PREÇOS DE ALOJAMENTO

Name of the Establishment / Denominação do estabelecimento .....  
Classification/Classificação .....  
Location/Localização .....

Designação do aposento/ type of accommodation	Preços (Moeda nacional) / Price (Meticais)	
	Mínimo / Minimum	Máximo / Maximum

Authorized in ....., on ..... 20... / Autorizado em, ..... aos ..... de ..... de 20.....

The ..... / O .....

- a) Name of the Province
- 1. This table must be displayed in a visible place, easily accessible to the public.
- 2. The lack of display will be object of a fine.
- 3. All direct or indirect taxation of the consumer must be included in this price list.

<sup>397</sup> Note that the models used by other tourism-related legislation mentioned in this Manual are broadly similar to these, but operators should check the requirements for their specific sector.



## 7.4. MODEL OF COMPLAINTS BOOK

Per Annex VI of the Tourism Regulation<sup>398</sup>:

- All establishments must have a Complaints Book on public display;
- The book must be provided when requested by a client who shows ID;
- The book must be signed and numbered on each page and have an opening and closing page, also signed by the competent licensing authority. Signing may be done by signature stamps. The book must have sheets in triplicate and be carbonless self-copying. One copy will be delivered to the complainant, another one is sent to the inspection services and the third one is kept in the book. The manager may provide on the copy of the complaint or in the book itself the claims, as deemed appropriate.
- Copies of the complaints entered into the book or the book itself must be submitted by the manager to the competent inspection services, within forty-eight hours.
- The licensing body must indicate in the book that they have seen the complaint;
- If the complainant does not do so, the manager of the establishment must fill in the name and address of the complainant.

Opening Statement – to be completed on the inside cover of the book by the MITUR representative (this must be written up and stuck in by the operator and then submitted to MITUR for completion):

### OPENNING STATEMENT / TERMO DE ABERTURA

This book will be used to Record the complaints under Article \_\_\_\_\_ / Há-de servir este livro para registar as reclamações apresentadas nos termos do Article \_\_\_\_\_.

Its is opened on \_\_\_\_\_ and contains the number of pages that closing end, all will be duly numbered and signed by me. / É aberto a \_\_\_\_\_ de \_\_\_\_\_ de \_\_\_\_\_ e contém o número de páginas que no termo de encerramento, todas serão devidamente numeradas and rubricadas por mim.

The \_\_\_\_\_ / O \_\_\_\_\_

Número de ordem / complaint number	Data / date	Reclamação apresentado por / complaint presented by	Portador de BI No. _____ do arquivo _____ / ID number and issuing authority	Morador em / Address

<sup>398</sup> Note that the model for the Complaints Book required by other tourism-related legislation mentioned in this manual is broadly similar to this one, but operators should check the requirements for their specific sector.

