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Law No. 55/VI/2004
of 10 January

Tourism Utility Statute

By mandate of the People, under the terms of subparagraph b) of Article 174, the National Assembly decrees, the following:

Article 1
(Object)

This Law establishes the regime of the Tourism Utility Statute and defines the criteria and requisites for attributing, suspending and revoking it.

Article 2
(Definition and Modalities)

1. The Tourism Utility foreseen in 13 of Law No. 21/IV/91, of 30 December, consists in the attribution of a status to the tourism establishments or companies that satisfy the requisites defined in this legislation and its regulating provisions.

2. The status referred to in the preceding number shall be attributed in the following modalities:

- a)* Tourism Utility for Installation;
- b)* Tourism Utility for Operation;
- c)* Tourism Utility for Remodeling.

3. The Tourism Utility Status for Installation is attributed to the new tourism establishments or undertakings, upon presentation of an investment project.

4. The Tourism Utility Status for Operation is attributed to the already installed tourism establishments and undertakings, as long as the corresponding construction work were executed in accordance with the architectural or constitution project, respectively, upon prior approval by the central tourism administration or that fulfill the legal requisites.

5. The Remodeling Tourism Utility status is attributed to the tourism establishments or undertakings that present a construction work project to improve or expand, budgeted in at least 25% of the initial investment value, with a view to significantly improve its operational level, approved by the central tourism administration and that:

- a)* Having benefited from status referred in the preceding number, have had at least 5 (five) years of exploration;
- b)* Not having benefited from the status referred in the preceding

number, have at least 2 (two) years of exploration.

Article 3
(Assumptions for the Attribution)

1. The Tourism Utility status shall be attributed to legally constituted tourism establishments or undertakings that have as social objective the exclusive exercise of the tourism activity.
2. For the purpose of this Law, tourism activity is defined as every initiative of a continuous nature that promotes tourism circuits, namely:
 - a) Lodging and or restaurant service;
 - b) Organization of internal excursions;
 - c) Organization of cultural animation and sports events that promote tourism entry and mobility;
 - d) Promotion of the country, in the external market, as a tourism destination;
 - e) Provisionment of the tourism market with national crafts products.

Article 4
(Form and Competence for the Attribution, Suspension and Revocation)

1. The Tourism Utility status is attributed, suspended or revoked by joint dispatch of the members of the Government responsible for Tourism and Finance, under proposal of the central tourism administration and based on a fundamented expert opinion of a Tourism Utility Evaluation Committee to be created by joint dispatch of the members of the Government responsible for the areas Tourism and Finance.
2. The referred Tourism Utility Evaluation Committee shall consist of responsible members of the tourism central administration, the General Directorate of Customs and the General Directorate of Contribution and Taxation.
3. The regulation of the Evaluation Committee shall be approved by joint dispatch of the members of the Government responsible for the areas of Tourism and Finance.

Article 5
(Criteria for the Evaluation of the Attribution Requests)

The requests for the attribution of the Tourism Utility status shall be evaluated taking into account the following criteria:

- a) Compatibility of the undertakings with the national policy for the tourism sector;

- b) Type and level of the installations and services of the undertaking;
- c) Make viable the national and international tourism circuits;
- d) The creation of diversion and leisure spaces;
- e) The promotion of the cape-verdian culture and gastronomy, when appropriate;
- f) The preservation of the environment and local costumes;
- g) Contribution to employment;
- h) Contribution to the balance of payments.

Article 6
(Documentation of the Attribution Process)

1. The process for the attribution of the Tourism Utility status shall be documented by a request addressed to the central tourism administration, accompanied by the following documents:

- a) Investment project accompanied by the architectural +project and other correlated documents, when appropriate;
- b) Duly authenticated photocopies of the proponent(s) identification document(s), when appropriate;
- c) Certificate of foreign investment status, when appropriate;
- d) Statute of the company regarding the tourism establishment or undertaking;
- e) *Curriculum vitae* of the investor(s), when appropriate.

2. The Tourism Utility status is attributed in consideration for the payment of a fee to be stipulated by ordinance of the member of Government responsible for the area of tourism.

Article 7
(General Incentives)

1. The tourism establishment or undertaking to which the Installation Tourism Utility status is attributed benefits, up to the end of the construction period and along the first year of operation, of the following incentives:

- a) Exemption of the Single Tax on Patrimony in the acquisition of immovables destined for the construction and installation of undertakings;
- b) Exemption of customs duties on importation of materials and equipment to be incorporated in the installations and that

contribute to its final valorization, specifically civil construction material, sanitary equipment, electrical and electronic equipment as well as their accessories and separate pieces, when they accompany the equipment;

- c) Exemption of customs duties in the importation of furniture, collective and mixed transportation vehicles destined for the exclusive transportation of tourists and luggage, recreation boats, boards and accessories, instruments and equipment destined for sports and cultural entertainment.

2. The tourism establishment or undertaking to which the Operational Tourism Utility status is attributed benefits from fiscal incentives relative to the Single Tax on Revenues for fifteen years, as follows:

- a) 100% exemption during the first five years of operation;
- b) 50% exemption during the second five-year period of operation.

3. The tourism establishment or undertaking to which the Remodeling Tourism Utility status is attributed benefits, during the remodeling period, of the incentives referred to in number 1 of this Article.

4. The tourism establishment or undertaking to which the Installation or Remodeling Tourism Utility status is attributed benefits from the exemptions foreseen in subparagraphs b) and c) of number 1 of this Article up to an amount corresponding to 15% of the total investments indicated in the terms of financial responsibilities and the project to equip the establishment approved by the central tourism administration.

5. The tourism establishment or undertaking in the situations foreseen in the preceding number further benefit from deduction of the collectable matter of the expenses incurred with the professional training of personnel of cape-verdian nationality and 40% of the expenses in the previously approved promotional actions.

6. The civil construction projects, accompanied by the terms of financial responsibilities and the quantified list of all the materials to be consumed or utilized in the construction works, must be duly approved by the Municipal technical services of the municipality where the project will be located and delivered, jointly with the project to equip the establishment, to the General Directorate of Customs to document the request for customs exemption.

7. The period referred to in subparagraph 6) of No.2 of this Article shall be prolonged for two more years whenever the establishments or undertakings declared to be of tourism utility are located outside the urban areas of the municipalities of Praia and S. Vicente and the municipality of Sal.

Article 8 **(Guarantees to Foreign Workers)**

The foreign workers recruited to exercise functions in the establishment or undertaking holding the Tourism Utility status, are entitled to the following rights and guarantees:

- a) Free transfer to the outside of the revenues earned in the exercise of their functions;
- b) Customs benefits and facilities identical to those attributed to workers in the ambit of the Industrial Statute.

Article 9 (Obligations)

1. The tourism establishment or undertaking that has benefited from the Tourism Utility status is obligated, for as long as it is in operation, to supply quarterly information related to its exercise, according to forms to be distributed by the central tourism administration, without prejudice to the obligation to provide any other information solicited by the General Directorate of Customs or by the General Directorate of Contribution And Taxation or by other competent entities.

2. The tourism establishment or undertaking that has benefited from the Tourism Utility status is also obligated to:

- a) To have an appropriate accounting functioning in accordance with the National Accounting Plan, and under the responsibility of a national accounting technician;
- b) Communicate to the central tourism administration any statutory alteration of the enterprise;
- c) Furnish to the oversight teams all the technical, commercial and financial information related to their activities;
- d) Not alter the structure of the establishment without authorization and expert opinion of the central tourism administration;
- e) Not stray to purposes extraneous to tourism exploration, save in the cases and under the conditions expressly authorized by the members of the Government responsible for the areas of Tourism and Finance, through a fundamented study and favorable expert opinion of the Tourism Utility Evaluation Committee.

Article 10 (Affectation of the Imported Goods with Fiscal Exemption)

1. A different destination may not be given to the materials and equipment imported under the Tourism Utility status, different from that for which they were declared, as long as the tourism undertaking benefits from the respective status.

2. In duly justified cases, the alienation of the referred materials and equipment can be alienated preceded by the expert opinion of the Tourism

Utility Evaluation Committee and authorization from the General Customs Directorate, by payment of the duties and other impositions calculated on the basis of the customs value recognized or accepted on the date of the alienation.

3. The violation of the provisions of the preceding numbers constitutes deviation from the rights foreseen and punishable under the terms of the customs litigation, without prejudice to other sanctions applicable under the terms of this legislation.

Article 11 **(Cessation of the Incentives)**

1. The fiscal incentives resulting from the attribution of the Installation Tourism Utility status cease within one year subsequent to the date foreseen for the conclusion of the construction works, according to the respective dispatch of attribution.

2. The fiscal incentives resulting from the attribution of the Operational Tourism Utility status cease at the end of the 15th year counting from the date of publication of the respective dispatch of attribution.

3. The fiscal incentives resulting from the attribution of the Remodeling Tourism Utility status cease on the date established by the respective dispatch of attribution.

Article 12 **(Suspension of the Status)**

1. The Tourism Utility status may be suspended, without prejudice to the respective period foreseen in the preceding Article, in the following cases:

- a)* Violation of the provisions of subparagraphs *a)* and *c)* of No.2 Article 9;
- b)* Non-compliance with the fiscal obligations;
- c)* Making the work conditions precarious and discriminatory practices in relation to the users.

2. The suspension foreseen in the preceding Article shall be revoked when the fine applied is liquidated and conformity is established with the violated legal provision, upon inspection, at the request of the infractor.

Article 13 **(Revocation of the Status)**

The Tourism Utility status is revoked when the beneficiary establishment or undertaking in any of the following situations:

- a)* Non-compliance with any of the obligations established in No.1 of the subparagraphs *b)*, *d)* and *e)* of No. 2 Article 9;

- b) Providing false information to the central tourism administration;
- c) Verification of non-compliance with any of the assumptions subjacent to the dispatch of attribution of the respective status;
- d) Violation of the provisions of No.1 of Article 10.

Article 14
(Publicity of the Attribution and Revocation Dispatches)

The dispatches of attribution and of revocation of the Tourism Utility status are obligatorily published in the *Official Bulletin* and produce effect from the date of the respective publication.

Article 15
(Sanction)

1. Without prejudice to the suspension or revocation of the Tourism Utility status, the infractions to the provisions of this legislation constitute contra-ordinations punishable with a fine of two hundred and fifty thousand ecv to two million ecv.

2. In the event of repeat offense, the maximum and minimum amounts fixed in the preceding number are raised to double, without prejudice of the assets, securities, rights or benefits obtained through the contra-ordination being declared lost to the State.

3. The administrators, managers or directors of establishments and undertakings that are beneficiaries of the Tourism Utility status are jointly responsible for the payment of the fines whenever they order or participate in the execution of the infraction.

4. It behooves the central tourism administration, by way of an expert opinion of the Tourism Evaluation Committee, to apply the sanctions foreseen in this legislation that do not result from the fiscal tributary infractions or are not of a customs nature.

Article 16
(Destination of the Fines)

The proceeds from the fines and fees foreseen in this legislation and applied by the central tourism administration constitutes revenue for the Tourism Development Fund, in whose account the fines and fees should be deposited directly by the enterprises involved.

Article 17
(Transitory Provisions)

1. The tourism establishments or undertakings that on the date this Law goes into effect have been declared of Tourism Utility under a prior title, are considered to under the Installation Tourism Utility status.

2. The establishments and undertakings that on the date this Law goes into effect have been declared to have definitive Tourism Utility status, are considered under the Operational Tourism Utility status.

Article 18
(Revocation)

Law No. 42/TV792, of 6 April, is hereby revoked.

Article 19
(Effective Date)

This law goes into effect on the day following its publication.

Approved on 7 December 2004.

The President of the National Assembly - *Aristides Raimundo Lima*

Promulgated on 23 December 2004.

Publish it.

The President of the Republic - PEDRO VERONA RODRIGUES PIRES

Signed on 27 December 2004.

The President of the National Assembly - *Aristides Raimundo Lima*