

LAW 42/IV/92

of 06 APRIL 1992

(TOURISM UTILITY STATUTE)

Mandated by the People, the National Parliament determines, according to paragraph b) of Article 58 of the Constitution, the following:

Article 1

The Tourism Utility Statute, established by article 13 of Law No.21/IV/91, of December 30, refers to a special regime assured to ventures that operate in the tourism industry and which satisfy the requirements defined in the present law.

Article 2

Tourism Utility Statute will be appraised taking into account the following premises:

- a) Suitability of the venture to the national tourism policy;
- b) Expected quality of the facilities and services;
- c) Location and type of venture;
- d) Interest of the venture within the framework of the local or national tourism infrastructures;
- e) Venture contribution to the reinforcement of the national or regional tourism circuits.

Article 3

Tourism Utility Statute shall only be granted to:

- a) New ventures;
- b) Existing ventures that are object of total or partial remodeling, expansion or re-equipping;
- c) Existing ventures that increase their offer capacity in, at least, 30%.

Article 4

1. Tourism Utility Statute is granted by joint decision of Government Officials in charge of tourism and finance sectors, by proposal from the General Directorate of Tourism;
2. Tourism Utility Statute may be granted temporarily to new ventures, or definitively to ventures already in operation.
3. Tourism Utility Statute granted temporarily may become final if, upon site inspection, it is found that the facility has been built according to the approved project.
4. Tourism Utility Statute granted temporarily may be revoked or declared null whenever the conditions upon which the statute was granted cease to exist.
5. The official decision regarding concession, confirmation and revocation of Tourism Utility Statute must be published in the Official Journal and will come into effect on the date of the publication.

Article 5

1. Temporary Tourism Utility Statute may be requested on the grounds of approved project draft.
2. As for number 1 above, the temporary statute shall be conditioned to the approval of the final project.

Article 6

1. Under special circumstances, Tourism Utility Statute may be granted more than once to the same enterprise, as long as, after the term period, it still fulfills applicable conditions and requirements.
2. For the purpose of the established in number 1 above, the validity term is the period set according to numbers 2 and 7 of article 8 below.

Article 7

1. Tourism Utility Statute shall only be granted to the following facilities:
 - a) Hotels and similar facilities;
 - b) Resorts;
 - c) Facilities offering cultural and sports related programs.
2. The established in this law may apply to travel and tourism agencies that fulfill requirements defined in appropriate legislation.

Article 8

1. Companies that own or run ventures declared to be tourist facilities benefit from the following incentives:
 - a) Exemption from real estate transfer and property tax;
 - b) Exemption from rental taxes and taxes on business profits, except for taxes on services and transfer of public goods.
2. The exemptions referred to in paragraph b) above will be granted for 5 years from the date operations begin.
3. For the 10 years following the first five, the facility will benefit from a 50 percent discount on those taxes and on complementary taxes.
4. Companies that request Tourism Utility Statute after the first year in operation, shall benefit, in case the statute is granted, from the exemptions established in part b) of number 1 of this article, for the period of two years starting at the application date.
5. If at the time of the application two or more years are still left to the end of the term foreseen in number 2, the company above will benefit from exemptions for the time remaining.
6. Under the circumstances foreseen in numbers 4 and 5 of this article, hotel facilities will furthermore benefit from the reduction foreseen in number 3, for a period of 4 years from the end of any of the periods referred.
7. The period referred to in number 2 of this article will be extended for an additional two years whenever the hotel and similar facility is located outside the urban areas of Praia, S. Vicente and Sal.

Article 9

Companies that own or run facilities declared to be tourism facilities benefit also from the following corporate and complementary taxes:

- a) Tax deduction on profits reinvested in other tourism or industrial activities;
- b) Tax deduction for expenses incurred in training the local work force.

Article 10

1. The companies that fit in number 1 of article 8 shall enjoy duty-free imports on:
 - a) Construction materials, including electric material, machinery, apparatus and their accessories and parts;

- b) Furniture and alike necessary to set up the facility;
 - c) Cruise ships, boards, parts, instruments and tools necessary to set up water sports facilities.
 - d) Buses and other vehicles for the exclusive use of the facility.
2. The exemptions established in number 1 above shall only be granted for goods that are not produced domestically or cannot be replaced, without inconvenience, by others made in Cabo Verde.
 3. The General Directors of Tourism and Commerce shall approve, by request from the company, the list of materials, equipment, tools and vehicles to be imported duty-free.
 4. The products included in such a list shall not be used, for at least five years, for purposes other than the set up or operation of the facility.
 5. The violation of the established in 4 above constitutes deviation from customs duties, which shall be subject to punishment in light of applicable customs regulations.
 6. If the temporary tourism utility statute, established in articles 4 and 5, is not confirmed, the facility shall reimburse to the competent authorities the amounts of customs duties, consumption and service taxes it had been exempted from according to number 1 of this article.

Article 11

Foreign workers hired by a facility declared as of tourism utility shall enjoy the following rights and guarantees:

- a) Free repatriation of 70% of the salaries earned in national currency;
- b) Free repatriation of 100% of the salaries earned during the vacation periods abroad;
- c) Exemption from customs duties, consumption tax and service tax on all imported personal goods, according to articles 2 and 3 of Decree-Law No. 39/88, of May 28.

Article 12

1. Goods imported under a temporary regime or under fiscal exemptions, shall not be object of loan, pawn, rental or leasing, unless authorized by the customs authorities.

2. Alienation of goods imported under temporary regime or under fiscal exemptions, shall be subject to prior authorization from the Director General of Customs. In such event, those goods shall be subject to the payment of all duties and other charges, calculated on the basis of their customs value recognized or accepted at the date of alienation, as long as they are not intended to entities that, by law, benefit from those special regimes.

Article 13

The power to grant fiscal exemption and temporary import regime is vested on General Directorate of Customs.

Article 14

1. Companies that own or run facilities declared to be tourism facilities have free access to foreign currency accounts in a local bank.
2. That incentive is valid during the construction period as well in subsequent improvement and remodeling of the facility.
3. The accounts above may only be operated on credit by transfers from foreign sources.
4. The access conditions to foreign currency accounts, as established in number 1 above, shall be regulated by the Central Bank.

Article 15

Once a the Statute of Tourism Utility is granted, the facility may benefit from incentives to built, expand, improve, adapt or equip itself. The Tourism Development Fund shall manage such incentives.

Article 16

1. When public interest prevails, as established by applicable law, the State may expropriate real state whenever there is evident need and interest to build, set up, expand or improve ventures that have been declared to be tourist facilities.
2. The application for Tourism Utility Statute must be proceed, in addition to legally required documents, with the approval of General Directorate of Tourism.

Article 17

Companies that own or run ventures declared to be tourist facilities must have an organized book-keeping system, in conformity to the law. Non-compliance to this rule implies the revocation of the Tourism Utility Statute.

Article 18

1. The violation of the rules established in the present law is punished with a fine from 50 thousand to 1 million Cape-verdean escudos.
2. The minimum and maximum limits set in the previous number are doubled in case of relapse.
3. Cumulatively, the State shall take possession of all goods, values, rights and benefits directly obtained or acquired by means of the violation.

Article 19

The General Director of Tourism is responsible for the application of fines resulting from the violation of the rules established in this law.

Article 20

The fines foreseen in the previous article will be graduated according to the nature of the violation, the damage caused, the degree of guilt and the violator's records and his/her economic capacity.

Article 21

The board of directors, managers, directors or management executives from the company are jointly liable for the payment of fines charged to the company, whenever they have ordered the violation or have taken part on it, or have sanctioned it, or by means of a presumably deliberated action have allowed its occurrence.

Article 22

The proceeds from the application of fines are revenues to the Tourism Development Fund.

Article 23

Laws No. 2073, of December 24, 1954 and No. 2081, of June 4, 1956 are revoked, as well as Decree No. 17 673, of April 14, 1960.

Article 24

The Government shall regulate the present law within 90 days.

Approved in February 28, 1992.

The President of the National Parliament, Amílcar Fernandes Spencer
Lopes

Promulgated in March 23, 1992.

To be published.

The President of the Republic, ANTÓNIO MANUEL MASCARENHAS
GOMES MONTEIRO.