

DECREE-LAW No. 19/2016

of 22 June

LEGAL REGIME OF LICENSE AND

FUNCTIONING OF TRAVEL AND TOURISM AGENCIES

The creation of a legislative decree that regulates the licensing and functioning of travel and tourism agencies has not only addressed a gap in our legal system, but also attributes to this type of activity the recognition of the importance it assumes towards the increase of tourism as a strategic sector of national development.

In accordance with the existing social reality, the idea was to outline a framework of activities developed by travel and tourism agencies, distinguishing between own or main activities and ancillary ones, and reserving the exclusivity of the former to companies licensed as such.

Without prejudice to this exclusive nature, civil society initiatives were recognized, which although not regular and non-profit, carry out this activity, implying greater efficiency of inspection procedures in order not to distort the objectives proposed in the diploma.

Special attention should also be paid to tourism information professionals. The need of adequate qualifications, and others essentials to exercise this activity, to be defined by joint ministerial diploma of those responsible for tourism, education and labor, are essential requirements for the correct exercise of this profession, considering that good performance is fundamental for the image that the country conveys.

Finally, the interests of customers were safeguarded by the obligation of travel and tourism agencies to provide a guarantee and civil liability insurance in order to guarantee, on the one hand, reimbursements incurred as a result of non-provision or rendering of a defective service and, on the other hand, the reimbursement of property and non-property damage due to action or omission caused by travel agents and their representatives.

Thus,

The Government decrees, pursuant to sub-paragraph n) of paragraph 1, of article 115, of the Constitution of the Republic, to enforce as law the following:

CHAPTER I

General Provisions

Article 1

Scope

The present diploma establishes the legal regime for the licensing and functioning of travel and tourism agencies, as well as the authorization of the activity of tourist information professionals.

Article 2

Concept

1. Travel and tourism agencies are companies whose object comprises the exercise of the activities provided for in paragraph 1 of article 3 of the present diploma and are licensed as such.
2. The notion of company referred to in the preceding paragraph and for the purposes of this diploma includes the trader in an individual name, cooperatives or commercial companies that carry out the activities referred to in the previous paragraph.

Article 3

Activities of travel agencies

1. These are the activities of travel agencies:
 - a) the organization and sale of tours and tourist trips;
 - b) reception, transfer and assistance to tourists;
 - c) representation of national or foreign travel agencies;
 - d) obtaining of ordinary visas, collective identity cards, visas or any other document necessary to carry out a trip;
 - e) purchase and sale of tickets on any means of transport, seat reservations, dispatch and transfer of baggage which relate to such tickets;
 - f) carrying out, in authorized companies, of accident insurance, baggage or other insurance covering risks arising from tourist activities;
 - g) reservations in establishments of tourist accommodation and of catering and drinks.

2. The activities referred to in sub-paragraphs e) and g) shall be considered to be proper to travel agents when exercised as mediation.

Article 4

Ancillary or supplementary activities of travel agencies

In addition to the activities listed in the previous article, travel agencies may provide any other services that are complementary to the tourist activity, namely:

- a) Provide tourist information and disseminate or distribute tourist material, such as tourist guides, timetables and similar publications;
- b) Carry out the activity of intermediation in the conclusion of contracts with companies of hiring of transports with or without a driver;
- c) Book and sell tickets for any public events;
- d) Provide the shipment, deposit, transfer and dispatch of luggage;
- e) Diligence in obtaining licenses of recreational, diving and other fishing licenses for tourists.

Article 5

Exclusivity and limits

1. Only companies licensed as travel and tourism agencies may, for profit, pursue the activities referred to in article 3 (1).
2. Excursions organized by educational establishments or associations in which elements of such establishments or beneficiaries of such associations take part are considered to be non-profit.
3. Not covered by travel agency exclusively:
 - a) The direct marketing of its services by tourist enterprises and transport companies;
 - b) The transport of customers by tourist enterprises with vehicles that belong to them.

Article 6

Designation of travel and tourism agencies

1. Only companies licensed as travel agencies and tourism companies may use such designation

or similar ones, namely "travel agent" or "travel agency".

2. In the designation of the travel and tourism agency, expressions that do not correspond to the services provided in the travel agency or that mislead about their classification cannot be included.
3. Travel and tourism agencies should use the same name in all establishments that they operate.
4. In all contracts, correspondence, publications, advertisements and, in general, in all external activity, agencies must indicate their license number and the location of the establishment.

CHAPTER II

Licensing of travel and tourism agencies

Article 7

Competence

The authorization for the installation, expansion, relocation, closure as well as suspension of the activities of travel and tourism agencies is the responsibility of the Ministry of Tourism, Arts and Culture, subject to a proposal of the Directorate-General for Tourism.

Article 8

Process instruction

It is incumbent upon the Directorate-General for Tourism to instruct the licensing of the activities of travel and tourism agency.

Article 9

Application for licensing

1. The application for licensing must be formulated in an application addressed to the Registry and Business Verification Service (SERVE), created by Decree-Law no. 35/2012, of July 18, and sent to the Directorate-General for Tourism where it is mentioned:
 - a) Name and registered office of the entity that operates the activity of travel agency;
 - b) Location of the travel agency;
 - c) Investment value;
 - d) Number of jobs created.

2. The license application must be accompanied by the following documents:

- a) Updated commercial registration certificate;
- b) Identification of administrators or managers;
- c) Proof of the provision of the bond previewed in article 28 of the present diploma;
- d) Plant of the premises destined to the exercise of the activity;
- e) Location of the property.

Article 10

Inspection and Decision

- 1. In the absence of a decision by the Directorate-General for Tourism on the license application within 30 working days of the date of application, irrespective of whether or not an inspection was carried out, it is understood that the license is granted and must be issued, provided that the fees due are paid, and the declaration of the promoter of the travel or tourism agency, stating that the establishment has the technical conditions of operation required by law, namely fire safety, is delivered.
- 2. Without prejudice to the provisions of the preceding paragraph, the licensing entity shall carry out an inspection at the premises of the agency within six months of the granting of the license.

Article 11

Obligation to communicate

- 1. The transmission of the property and transfer of the establishment's operation, as well as the alteration of any integral part of the license application, must be communicated to the Directorate-General for Tourism within 30 days after its verification.
- 2. The communication provided for in the preceding paragraph must be accompanied by the documents proving the facts invoked.

Article 12

License, its validity and renewal

- 1. Proof of authorization for the opening and pursuit of the activity of a travel and tourism agency is carried out by means of a license by the person in charge of the licensing entity, in accordance with the model in Annex I.

2. The license is valid for 5 years.
3. The license must be prominently displayed in the travel and tourism agency.
4. The renewal of the license is made by means of an application addressed to the licensing entity, with the surety bond being settled and the original of the previous license attached.

Article 13

Opening of branches or delegations

The opening of branches or delegations of travel and tourism agencies, national or foreign, are subject to the licensing rules provided for in this diploma.

Article 14

Revocation of license

1. The license to pursue the activity of a travel agency may be revoked when:
 - a) the agency does not start the activity within 90 days after its grant;
 - b) there is bankruptcy;
 - c) the agency ceases its activity for a period exceeding 90 days without justifiable reason;
 - d) some of the legal requirements for granting the license are no longer satisfied.
2. The revocation of the license is determined by the Minister of Tourism, Arts and Culture, upon a proposal by the Director General for Tourism and entails its cancellation.

Article 15

Register

1. The Directorate-General for Tourism shall organize and keep up to date a register of licensed agencies, including the following:
 - a) Identification of the representative of the travel and tourism agency;
 - b) Name of the firm or company name;
 - c) Identification of administrators, managers and directors;
 - d) Business location
 - e) Inspections and surveys carried out.

2. The amendment of any of the elements of the application for licensing must also be registered.

CHAPTER III

Professional activity of tourist information

Article 16

Tourist Information Professional

1. The following are professionals of tourist information:

- a) Tourist guides;
- b) Tourist information technicians.

Article 17

Tourist guides

Tourist guides are independent or subordinate tourist information professionals who are responsible for conducting a group on a tour or guided tour in charge of accompanying tourists on a full-time or part-time basis and who have knowledge of foreign languages.

Article 18

Tourist information technicians

Tourist information technicians are professionals of tourist information that carry out their activity at a tour desk or tourist information center and whose function consists predominantly in the provision of tourist information, dissemination of advertising material and similar publications to tourists and other interested parties.

Article 19

Request

1. The request for the exercise of the activity of tourist information professional must be made by means of an application addressed to the Minister responsible for tourism, in which the following documents are added:
 - a) Authenticated photocopy of identity card or other identification document;
 - b) *Curriculum vitae*;
 - c) Certified copy of the specific qualification certificate issued by the competent authority.

2. The certificate referred to in the previous paragraph must, among others, include the courses taken and that are related to the activity to be pursued.
3. Holders of qualification certificates obtained abroad may also have access to the activity of a tourist information professional, provided that they are legally recognized by a competent national authority.

Article 20

Other Requirements

The requirements for educational and other qualifications related to access to the activity of tourist information professionals are defined by a joint diploma of the ministers responsible for the areas of tourism, education and labor.

Article 21

Identification

1. The tourist information professional is authorized to carry out his/her activity after obtaining the respective identification card from the licensing entity, according to the model to be approved by ministerial diploma.
2. It is mandatory the external use of the identification card by the professionals of tourist information, when in the exercise of his/her activity.
3. The tourist information professional identification card is valid for three years and is renewable.

CHAPTER IV

Obligation of tour guides

Article 22

Obligation of tour guides

1. In tourist trips, when it comes to tourist circuits or organized trips, it is always compulsory to have tourists accompanied by tour guides, from the beginning to the end of the circuit, in proportion of one for each bus and in other cases one for every thirty people.
2. The services provided by the tour guides referred to in the previous paragraph shall be understood as rendered by the travel and tourism agencies to which they belong.

CHAPTER V

Relations between travel and tourism agencies with tourist accommodation establishments

Article 23

Deposit

1. In the case of bookings made by travel and tourism agencies in tourist accommodation establishments, a deposit should be given, if the establishments so require, as a prepayment of the final price.
2. When the establishment makes the deposit requirement, the reservation should not be considered confirmed until the corresponding deposit has been made by the travel and tourism agency.

Article 24

Deposit limit

The deposit referred to in the previous article shall not exceed the amount corresponding to 20% of the price agreed for each reserved accommodation unit.

Article 25

Reservation resolution

1. Travel and tourism agencies may cancel the reservations they have made for individual travel, provided that they do so at least twenty-four hours in advance unless otherwise agreed.
2. In the case of collective travel, the minimum period of notice of annulment shall be five days, unless otherwise agreed.
3. At least five days in advance of the date of arrival, the agencies must confirm the definitive number of persons that compose the group, unless otherwise agreed.
4. The cancellation of the reservations in accordance with the provisions of the previous paragraphs implies the reimbursement by the establishment of tourist accommodation of the amount paid in advance, unless otherwise agreed.

Article 26

Compensation

When the travel and tourism agency cancels the reservations, with non-compliance with the deadlines set forth in the previous article, tourist accommodation establishments may claim, by way of compensation, an amount corresponding to that established in article 24 for a room that they have not been able to occupy.

Article 27

Payday

Unless otherwise agreed, travel and tourism agencies must make payment to tourist accommodation establishments no later than 15 days after the invoice is submitted.

CHAPTER VI

Security deposit, insurance and civil liability

Article 28

Security deposit

1. The exercise of the activities foreseen in the present diploma is subject to the provision of a security deposit in favor of the State in the amount of USD 10,000 (ten thousand US dollars).
2. The security deposit is provided by deposit in cash or by bonds, insurance or bank guarantee, into a Treasury account opened for this purpose.
3. The copy of the title of the security deposit shall be deposited with the Directorate-General for Tourism.
4. The guarantee resulting from the security deposit shall cover all acts performed during its term.
5. In the event of closure of travel and tourism agencies, whatever the cause, the security deposit shall remain in force for the six months following the closure and shall be responsible for all claims submitted during that period, provided that it arises from obligations contracted before the closure and in accordance with the present diploma.
6. For the purposes of the provisions of the preceding paragraph, closure must be notified to the licensing entity at least thirty days in advance.
7. The value of the security deposit can be upgraded whenever necessary through a ministerial diploma of the Minister responsible for tourism.

Article 29

Security deposit activation

1. The client interested in activating the security deposit must request it from the licensing entity, through an application accompanied by the supporting evidence of the alleged facts within a maximum period of twenty days after verification.
2. The licensing entity, after hearing the travel and tourism agency, decides on the activation of the security deposit within a maximum period of twenty days.
3. If no decision is taken, the application shall be deemed to have been rejected.
4. The decision of the licensing authority is subject to a hierarchical appeal to the Minister responsible for tourism.

Article 30

Warranties Required

1. In order to guarantee liability to clients arising from the exercise of their activity, travel and tourism agencies must provide a security deposit in accordance with article 28 and carry out liability insurance.
2. The following must be guaranteed:
 - a) The reimbursement of amounts delivered by customers;
 - b) The reimbursement of the additional expenses incurred by customers as a consequence of not providing the services or their insufficient or defective service;
 - c) The reimbursement of property and non-property damages caused to clients or to third parties, by actions or omissions of the travel and tourism agencies, or their representatives;
 - d) The repatriation of customers and their assistance, to the point of departure or arrival.

Article 31

Formalities

No travel and tourism agency may initiate or carry out its business without proving to the Directorate-General for Tourism that the required guarantees have been duly entered into and are in force.

Article 32

Insurance

1. The insurance is intended to guarantee the professional civil liability resulting from the travel and tourism agency and must be kept up to date and in force.
2. The insurance coverage cannot be less than USD 20,000 (twenty thousand US dollars).
3. The insurance shall cover property and non-property damages caused to customers or to a third party by actions or omissions of representatives or persons employed by travel and tourism agencies for which they are civilly responsible.
4. The insurance provided for in this article must specifically cover the additional costs incurred by customers as a result of the failure to provide or insufficient or defective services.
5. As long as the travel and tourism agency organizes or proposes to organize tourist trips abroad, insurance must be valid for all countries visited.
6. The value of the insurance can be upgraded whenever necessary, through a ministerial diploma of the Minister who oversees the tourism area.

Article 33

Exclusion

1. The following are not covered by insurance:
 - a) Damage or losses caused to legal representatives of travel and tourism agencies and the persons employed by them;
 - b) Damage caused by the customer or third party or resulting from non-compliance with the rules in force regarding the services provided by travel and tourism agencies or the instructions given by them.
2. Damage or losses caused by accidents involving means of transport which do not belong to travel and tourism agencies may be excluded from insurance provided that the carrier has the insurance required for that means of transport.

CHAPTER VII

Complaints book

Article 34

Obligation of complaints book

1. In all travel and tourism agencies it is mandatory to display a complaints book in a prominent place.
2. The complaints book shall have opening and closing term, signed by a superiorly indicated official with triplicate sheets duly initialed and their pages numbered sequentially.
3. Whenever requested, the complaints book should be available to customers who display document proving their identification.

Article 35

Allegations

On complaints, the director of the travel and tourism agency may allege, and copies of the complaints and allegations must be forwarded to the Directorate-General for Tourism within forty-eight hours of the complaint for possible inspection by the competent services.

CHAPTER VIII

Administrative Offenses

Article 36

Administrative Offenses

1. The following behaviors constitute administrative offenses:
 - a) Infringement of the provisions of article 5, paragraph 1;
 - b) Infringement of the provisions of article 6 (1) and (2);
 - c) Infringement of the provisions of article 6 (3) and (4) and article 11;
 - d) Infringement of the provisions of article 34 (1) to (3);
 - e) Infringement of the provisions of article 30 (1) and article 32;
 - f) Infringement of the provisions of article 31;
 - g) Opposition to the performance of inspections and surveys by the competent authorities and refusal to provide these entities with the requested elements.
2. The conduct provided for in sub-paragraphs a) and e) of the previous paragraph shall be punished with a fine of USD 2,500 to 5,000.

3. The conduct provided for in paragraph 1 (f) shall be punished with a fine of USD 2,500 to 4,000.
4. The conduct provided for in sub-paragraphs b), c), d) and g) shall be punished with a fine of USD 1,500 to 2,000.
5. The minimum and maximum limits of the administrative offenses provided for in this law are doubled if they are practiced by legal persons.
6. Any conduct likely to constitute administrative offense not covered by this article shall apply to the general regime of administrative offense.
7. Attempt and negligence are punishable.

Article 37

Limits of the fine in case of attempt and negligence

The maximum and minimum limits of the fine are reduced by half in cases of attempt and negligence.

Article 38

Additional sanctions

1. Where the gravity of the infringement so warrants, the following additional sanctions may also be applied:
 - a) Interdiction of the exercise of profession or activity directly related to the offense practiced;
 - b) Suspension of the authorization to carry out the activity and closure of the establishment.
2. The decision to apply any sanction may be advertised, at the expense of the offender, by the inspection and supervision entity in a national or local newspaper according to the importance and effects of the infringement.
3. The travel and tourism agency must also affix in the establishment a copy of the conviction decision in a clearly visible place for a period of 30 days.
4. Violation of the provisions of the preceding paragraph carries a fine of USD 500 to USD 2,500.

Article 39

Recidivism

1. Recidivism shall occur when, after the application of a sanction, a similar new offense occurs before six months have elapsed on the date of definitive application of the previous sanction.

2. Recidivism is punishable by raising to three times the minimum and maximum limits of the fines provided for in this diploma.

Article 40

Payment of fines

1. The deadline for voluntary payment of fines is 15 days from the date of notification.
2. The payment is made by a guide issued by the inspection and supervision entity to be deposited with the Treasury.
3. In the absence of payment within the period referred to in paragraph 1, the case shall be referred to the competent court.

Article 41

Complaints and appeals

From the decisions taken there is a complaint and hierarchical appeal and/or litigation under the law.

Article 42

Product of the fines

The value of the fines received for breach of the provisions of this diploma constitutes State revenue.

CHAPTER IX

Final and transitional provisions

Article 43

Fees

1. The amounts of the fees due for license and authorization concessions and for conducting inspections constitute State revenues and are those set forth in Annex II of this statute, which forms an integral part thereof.
2. The fees are paid at the licensor's premises, by issuing a guide, to a bank account opened for that purpose, within eight days after the license applications are submitted.
3. The applicant must provide proof of payment of the fee, otherwise all the documentation delivered will be returned.

Article 44

Amendment of fees and penalties

1. The fees and fines provided for in this diploma are updated whenever necessary according to the annual inflation indexes published annually by the Central Bank of Timor-Leste.
2. The amendment referred to in the preceding paragraph is made by a joint diploma of the ministers responsible for the areas of finance and tourism.

Article 45

Transitional competence of the Directorate-General for Tourism

1. It is incumbent upon the Directorate-General for Tourism, until the establishment of the entity responsible for inspection and supervision of economic, sanitary and food activities, the following:
 - a) Supervise compliance with the provisions of this diploma and its regulations;
 - b) Know the complaints presented;
 - c) Instruct the processes for infractions to the established in this diploma and its regulatory dispositions and apply the respective sanctions.
2. Administrative and police authorities shall cooperate with the officials of the Directorate-General for Tourism in the exercise of their supervisory functions, and the elements duly requested shall be provided to them.
3. The decision to apply any sanction may be publicized, at the expense of the offender, by the Directorate General for Tourism in a national or local newspaper, according to the importance and effects of the offense.

Article 46

Transitional regime

All activities foreseen in the present diploma and that are currently being carried out in the country, must be regularized in accordance with it, within six months from the date of its publication.

Article 47

Entry into force

The present diploma comes into force fifteen days after the date of its publication.

Approved by the Council of Ministers on 3 May 2016

The Prime Minister,

Dr. Rui Maria de Araújo

The Minister of Tourism, Arts and Culture

Francisco Kalbuadi Lay

Promulgated on 6-13-2016

To be published.

The President of the Republic,

Taur Matan Ruak

ANNEX I

**DEMOCRATIC REPUBLIC OF TIMOR-LESTE
MINISTRY OF TOURISM, ARTS AND CULTURE
DIRECTORATE-GENERAL FOR TOURISM
TRAVEL AGENCY AND TOURISM**

LICENSE NO.

....., Director-General for Tourism, hereby informs that by its

Order of / /, and pursuant to article 12, of Decree-Law no / of ofTHE
LICENSE WAS GRANTED (RENEWED) for the exercise of the activity of Travel and Tourism
Agency to the company, located in..... in

Dili,...of...of

THE DIRECTOR-GENERAL,

(.....)

ANNEX II

Rate and Licensing Table

	Activities	Amount payable
1	Analysis and approval of projects	\$ USD 70
2	Inspection and licensing	\$ USD 70

Other taxes

3	Renewal of license	\$ USD 50
4	Location change	\$ USD 50
5	Opening of branch or delegation	\$ USD 70
6	Change of branch or delegation location	\$ USD 50

Requests for certificates (any).-..... \$ USD 5

Requests for authentication of photocopies (per page).....\$ USD 1

The price of printed matter and the administrative fees are not refunded, even if the license is refused.