

Decree-Law no. 16/96/M

April 1

The new challenges faced by tourism in Macau, with the potential of faster and direct access to the main source markets, which has been accompanied by a visible expansion of the number of hotels, require the renewal and consequent adaptation not only of the administrative and operational support structures, as well as of the legislation regulating the activities that, prior and subsequently, allow the stimulation of the potential traffic and better conditions for lodging, entertainment and satisfaction of the needs and expectations of the tourists that visit the Territory.

However, the clearly demonstrated intention to invest is not sufficient; it is also necessary for the result of such investment, visible in hotel equipments and similar facilities, to have quality and to comply with minimum internationally recognized standards, and that the services supporting and spurring them have a similar level of quality.

It is therefore necessary to revise and update the regulation applicable to hotels and similar activities, relieving the official tourism services from licensing and supervision functions in relation to some types of similar establishments which, in this manner, are passed to the scope of the functions of the Municipalities. A reformulation is made in the provisions concerning the requirements applicable to establishments, namely those relating matters of hygiene, safety and comfort of the clients.

The mechanisms of control and supervision are also redefined, the licensing certificate becomes a single document and the system of penalties is readjusted, namely with increases in the penalties relating to hygiene and safety.

Accordingly;

After having heard the Consultative Council;

The Governador decrees, in accordance with subparagraph 1 of article 13 of the Macau Organic Statute, to apply as law in the territory of Macau, the following:

Chapter I

General Provisions

Article 1

(Object)

1. This law sets out the administrative rules for the licensing and inspection of hotel establishments and similar establishments in the territory of Macau.

2. For the purposes of the previous paragraph, the Macau Government Tourist Office, henceforth MGTO, and the Municipalities, shall have competence.

Article 2

(Competence)

1. Without prejudice to paragraph 2 of article 18, MGTO is competent to license and inspect the hotel establishments mentioned in article 5, and the similar establishments of Groups 1, 2 and 3 of paragraph 1 of article 6.

2. The Municipalities shall license and inspect the similar establishments of Groups 4 and 5 of paragraph 1 of article 6.

3. The competence of the Municipalities may be expanded, by means of a dispatch of the Governor, so as to cover other groups within similar establishments.

Article 3

(Definition of hotel establishment)

For the purposes of this law, hotel establishments shall be considered as those which are intended to provide lodging to the public, against payment, with or without the supply of meals or other complementary services.

Article 4

(Definition of similar establishment)

For the purposes of this law, similar establishments shall be considered as those which are intended to provide food or beverage to be public, to be consumed within the premises, against payment.

Chapter II

Classification and declassification

Section I

Classification

Article 5

(Classification of hotel establishments)

1. Hotel establishments are classified in the following groups and categories:

Group 1 — Hotels: five, four, three and two stars;

Group 2 — Apartment hotels: four and three stars;

Group 3 — Tourism complexes: five and four stars;

Group 4 — Guest houses: three and two stars.

2. The classification of deluxe may be granted to five star hotels which meet the requirements defined by regulation.

3. Group 1 comprises establishments which offer lodging and food and beverage as main services, together with complementary services.

4. Group 2 comprises establishments which are made of a group of furnished apartments, located within a separate building, and operated as a hotel.

5. Group 3 comprises establishments which are made of a group of interconnected and adjacent installations, which are the object of an integrated tourist operation, and which are intended to provide lodging to its users, together with complementary services and with sports and entertainment facilities, namely those designated in international practice as ‘resort’.

6. Group 4 comprises hotel establishments which, by their installations and facilities, do not meet the standards required for a classification as hotel, but which meet minimum requirements set out by regulation.

Article 6

(Classification of similar establishments)

1. Similar establishments are classified in the following groups and categories:

Group 1 — Restaurants: deluxe, 1st and 2nd classes;

Group 2 — Night clubs: deluxe and 1st class;

Group 3 — Bars: deluxe and 1st class;

Group 4 — Beverage establishments;

Group 5 — Food establishments.

2. Group 1 comprises the establishments the activity of which consists in the provision of main courses, including those designated in international practice as ‘coffee shop’, ‘self-service’ and similar.

3. Group 2 comprises the establishments the main activity of which consists in the provision of night clubs, with or without entertainment shows, with the supply of drinks,

including or not the service of meals, namely those designated in international practice as ‘night-club’, ‘disco’, ‘dancing’ and ‘cabaret’.

4. Group 3 comprises the establishments the activity of which consists in the supply of drinks, mainly alcoholic, including those designated in international practice as ‘pub’ and ‘lounge’.

5. Group 4 comprises the establishments the main activity of which consists in the supply of drinks, being able to offer a service of light meals, including namely those designated in international practice as ‘cafe’, ‘ice cream shop’, ‘pastry shop’ and ‘tea house’.

6. Group 5 comprises the establishments the activity of which consists in the supply of meals and which, by their premises and equipment, do not meet the standards required for a classification as restaurant, but do meet the minimum standards defined by regulation, including namely those designated in international practice as ‘congee and noodle shop’ and ‘eatery’ [*casa de pasto*].

Article 7

(Integration of similar establishments within hotel establishments)

1. If any activities of similar establishments are exercised, with functional autonomy towards the public, within a hotel establishment, the provisions that regulate the operation of the former shall apply to them, with the necessary adaptations.

2. There is functional autonomy namely where the respective operation is announced to the public in an individualized manner.

3. In the case mentioned in paragraph 1, the classification of the hotel establishment determines the other classifications.

4. Similar establishments with a classification not corresponding to that of the hotel establishment of which they are part may be authorized, provided that the different parts meet the following requirements:

a) There shall be clear autonomy between them;

b) There shall be a correct and functional delimitation so as to ensure the autonomy of each of them, as well as to preserve the own characteristics and the service standards of each category;

c) Comply with the minimum areas for each category required by regulation.

Article 8

(Concurrence of activities in similar establishments)

If activities corresponding to more than one group are exercised within a single similar establishment, it shall comply with the requirements set for each group, with the necessary adaptations, and the classification granted shall be a single one, corresponding to that determined by the main activity.

Article 9

(Classification criteria)

1. The technical requirements for the purpose of classification of establishments are defined by regulation.
2. The characteristics and location of the establishments, as well as the quality of the premises and of the services, shall be taken into account for the purpose of granting the category.

Article 10

(Revision of classification)

1. If any changes in the prerequisites that have caused a classification do occur, the classification granted to an establishment may be revised at any time, *ex officio* or upon request of the license holder.
2. A change of classification shall be preceded by an inspection to be conducted in accordance with articles 20 and following.

Article 11

(Prohibition of using a different classification)

Establishments cannot use a classification different than the one which was granted to them, nor by any means allude to a previous classification that has been changed.

Section II

Declassification

Article 12

(Declassification)

Declassification occurs by lowering group or category within a group.

Article 13

(Prerequisites of declassification)

1. Declassification can be effected, irrespective of the application of penalties as may be the case, if the establishment does not correspond to the group or category that was granted to it, as a result of a deficient state of conservation of the premises.
2. Declassification can only be ordered if, subsequent to the issue of a notification to the interested party to bring the establishment to a condition compatible with the classification, he has not done so within the time limit that was granted to him.

Chapter III

Licensing

Section I

Request for operation

Article 14

(Initial application)

1. Individuals and collective persons wanting to operate a hotel establishment or a similar establishment shall apply for the respective authorization to MGTO or to the Municipality of the respective location.
2. The application shall mention:
 - a) Identification of the applicant by name, civil status, profession, residence or registered office;
 - b) Location of the establishment;
 - c) Indication of the activity to operate and of the classification intended;
 - d) Intended trade name.
3. The application is filed together with the elements stated by regulation.

Article 15

(Defects in filing the request)

1. Should the existence of defects in the filing of the request be found, the licensing entity shall request the respective correction to the interested party; a time limit shall be set for this purpose.

2. If the time limit set expires without the defects having been corrected, the request is rejected.

Section II

Opinions

Article 16

(Entities intervening in the process)

1. In exercising the licensing activity, MGTO and the Municipalities shall consult the entities with specific competence in the appropriate matters, namely those of an urbanistic, sanitary and fire safety nature.
2. The consultation of the Land, Public Works and Transport Bureau, the Municipalities, the Macau Health Bureau, and the Fire Services Bureau is compulsory.
3. The consultation of the Public Security Police Force is also compulsory in relation to establishments comprised in Groups 2 and 3 of paragraph 1 of article 6, and of the Macau Cultural Affairs Bureau in relation to establishments to be installed in protected buildings, sites or groups.
4. The licensing of construction works for the installation of hotel establishments or similar establishments by the Land, Public Works and Transport Bureau requires the appropriate destination of the site.

Article 17

(Obtention of opinions)

1. In order to obtain the opinions, the licensing entities shall forward the elements mentioned in article 14 to the entities stated in the previous article.
2. Without prejudice to the provisions of the previous paragraph, and whenever it is deemed necessary, the licensing entities may also call meetings attended by all of the entities mentioned in the previous article in order to obtain a global final opinion so as to enable a decision.
3. Minutes of the meetings shall be prepared, which shall be signed by the participants.

Article 18

(Processing)

1. Once the opinions mentioned in articles 16 and 17 have been obtained, and the compliance of the project with the requirements set by law has been assessed, a report is

prepared and submitted for decision by the hierarchy; the respective decision is communicated to the applicant and to the entities mentioned in article 16.

2. A dispatch issued upon a licensing request of establishments of Groups 1, 2 and 3 of paragraph 1 of article 5 is subject to approval by the entity overseeing the area of tourism.

3. Once the request has been authorized, an inspection of the premises shall be requested immediately after their conclusion.

4. The inspection request shall be presented within a time limit of 18 months, in the case of a hotel establishment, or of 6 months, in the case of a similar establishment.

5. The time limits mentioned in the previous paragraph are counted from the communication of the authorization to the applicant.

6. Non-performance of the time limits mentioned in paragraph 4 causes the lapse of the authorization and the consequent archival of the process.

Section III

Amendments

Article 19

(Régime)

1. Any amendment involving the modification to the approved project, or of the general conditions of an establishment's premises, requires authorization from the licensing entity.

2. Article 14 and following shall apply to the case mentioned in the previous paragraph, with the necessary adaptations.

Section IV

Inspection

Article 20

(Purpose)

The purpose of the inspection mentioned in paragraph 3 of article 18 is to ascertain the conformity of the premises with the approved project and with the classification requested, having into account the level of the decoration and the quality of the equipment.

Article 21

(Commission members)

1. The inspection is carried out by a commission made of:

a) A representative of MGTO, who shall be the coordinator;

b) A representative of the Land, Public Works and Transport Bureau;

c) A representative of the Municipality of the installation site;

d) A representative of the Macau Health Bureau;

e) A representative of the Fire Services Bureau;

f) A representative of the Public Security Police Force, in the case of establishments of Groups 2 and 3 of paragraph 1 of article 6;

g) An element from MGTO to function as secretary.

2. In the case of establishments the licensing of which is a competence of the Municipalities, these shall provide coordination and secretariat to the inspection commission, which shall be made of the representatives mentioned in subparagraphs *b)* to *e)* of the previous paragraph.

3. A representative of the Labor Affairs Bureau shall be called in for inspections of establishments employing more than 30 workers.

4. The applicant shall attend the inspection.

Article 22

(Time limit)

The inspection shall be conducted within a time limit of 20 days, counted from the date of lodging the application in the respective Bureau.

Article 23

(Inspection report)

1. A report of the inspection shall be drawn up, which shall include the opinions of the entities represented, as well as the final information regarding compliance with the minimum conditions for opening to the public and the conformity with the classification requested.

2. If any defects are found, a time limit shall be set, and stated in the report, for the respective correction.

3. A copy of the report shall be handed to the applicant, who may file a reclamation within a time limit of 3 days.

4. The report shall be submitted for dispatch by the hierarchy.

Article 24

(Decision contrary to opening)

Should the result of the inspection be contrary to the opening of the establishment, it shall be communicated to the applicant, with the respective justification.

Article 25

(Correction of defects)

The verification of the correction of the defects mentioned in paragraph 2 of article 23 is made by means of a new inspection, which shall be attended, at least, by representatives of the entities with competence related to such defects.

Article 26

(Competence change)

1. If it is observed in the inspection that the establishment does not correspond to the group mentioned in the request, and if the competence for the respective licensing is of another entity, the licensing procedure shall continue with the latter.

2. In the case mentioned in the previous paragraph, the inspection shall be suspended if the representative of the competent entity is not in attendance.

Article 27

(Supervision)

Subsequent to the licensing of an establishment, and whenever it is deemed necessary, the licensing entity may call the inspection commission, by its initiative or upon request of any interested parties.

Section V

Licensing

Article 28

(Issue of license)

1. If the inspection is favorable to the opening of the establishment, the licensing entity shall issue the respective license within a time limit of 15 days, counted from the date of the inspection.

2. The licensing entity shall arrange the publication in the *Official Bulletin* of an extract of the license; the costs shall be borne by the interested party.

Article 29

(Régime)

1. The license is renewable in accordance with conditions stated by regulation.

2. The license shall be available in the establishments, and shall be presented to the supervision entities whenever requested by them.

Article 30

(Start of operation)

Hotel establishments and similar establishments can only open to the public after the issue of the respective license.

Article 31

(Lapse of license)

1. The license lapses and is cancelled if the establishment is closed for a period of 1 year or more.

2. The lack of a request for the renewal of the license for 2 consecutive years causes the lapse of the license and its consequent cancellation.

Section VI

Additions

Article 32

(Triggering factors)

Any change of the holder, of the trade name, or of the classification of the establishment, shall cause an addition to the license.

Article 33

(Change of holder)

1. The transfer of the ownership of the establishment, or of the operation rights, does not depend upon a prior authorization, but it must be communicated to the licensing entity through the presentation of a document showing evidence of it.

2. The addition of the change of holder shall be applied for by the individual or collective person to whose benefit the amendment occurred, within a time limit of 60 days counted from the act that caused it.

Section VII

Trade name

Article 34

(Régime)

1. Trade names similar or that in any way may be confused with those of other hotel establishments or similar establishments already existing cannot be approved.

2. The trade name of an establishment cannot include expressions that do not correspond to the services provided by it or that induce in error as to their classification.

3. For the purpose of paragraph 1, the licensing entities may obtain among them the opinions necessary for the approval of the trade name.

4. Establishments cannot use a classification different than the one which was authorized, nor by any means allude to a previous classification that has been changed.

5. Trade names shall be expressed in Portuguese and Chinese languages, except where they correspond to internationally well known trade names in the hotel industry.

Section VIII

Prices

Article 35

(Régime)

1. Hotel establishments and similar establishments, regardless of their classification, shall set freely the prices, without prejudice to the provisions of the following paragraphs.

2. Subsequent to the issue of the license, the person responsible for the establishment shall communicate to the licensing entity the proposed price list to be adopted.

3. The provision of the previous paragraph applies in case of amendments to the price lists.

Article 36

(Minimum consumption)

1. Similar establishments of groups 2 and 3 of paragraph 1 of article 6 may require a minimum consumption.
2. In the case mentioned in the previous paragraph, the price of the minimum consumption shall be posted at the entrance of the establishment, in a visible place, with the indication of the quantity and type of products that the clients are entitled to.

Article 37

(Indication of taxes and fees)

The price lists in force in hotel establishments and in similar establishments shall have an indication of the taxes and fees applicable to the prices and that are charged to clients, or an indication of the fact that they are already included in them.

Article 38

(Posting)

Hotel establishments shall post in all lodgings the price lists applicable.

Chapter IV

Regulation and inspection

Section I

Regulation

Article 39

(Compulsory standard plaque)

Hotel establishments and similar establishments of groups 1, 2 and 3 of paragraph 1 of article 6 shall be identified, as to their classification, by means of a standard plaque, in accordance with a model stated by regulation, posted in the outside of the establishment, close to the main entrance.

Article 40

(Free access)

Except for the provision of the following article, hotel establishments and similar establishments shall be open to the public; unjustified discriminatory practices limiting free access are not allowed.

Article 41

(Prohibition of access)

1. The following are deemed to be justified motives of prohibition of access or stay in establishments:

- a) Lack of intention to acquire or consume goods or services which are the object of the establishment's activity;
- b) Drunkenness;
- c) Lack of observance of standard rules of hygiene, morality, sociability and public order.

2. The access of persons carrying animals may also be interdicted.

Article 42

(Working hours of hotel establishments)

1. In hotel establishments the working time is continuous and uninterrupted, except for the restrictions that may be imposed for safety reasons.

2. Hotel establishments may have services corresponding to other activities, namely to those of similar establishments, with separate working hours.

Article 43

(Working hours of similar establishments)

Similar establishments of groups 2 and 3 of paragraph 1 of article 6 shall have working hours approved by the licensing entity, after having consulted the Public Security Police Force.

Article 44

(Behavior interdicted to clients)

It is forbidden for clients of hotel establishments or similar establishments:

- a) To sell any products in them without authorization;

- b)* To consume food or beverage not supplied therein, except in hotel establishments which have cooking facilities;
- c)* To bring in furniture without authorization, or to make any repairs or changes in the lodging;
- d)* To lodge more persons than those corresponding to the capacity of the lodging or declared in the respective lodging contract;
- e)* To introduce explosive, flammable or dangerous substances in the lodging;
- f)* To use the lodging for a purpose different from that agreed.

Article 45

(Person responsible for management)

- 1.** In hotel establishments and similar establishments there shall be a person responsible, who shall watch over the proper operation of the establishment, the correct treatment of the clients, the speed and efficiency of the service, and for the compliance with applicable legal provisions.
- 2.** The person responsible mentioned in the previous paragraph shall also provide, through appropriate means, for the general safety of the establishment.

Article 46

(Complaints)

A full copy of the complaints made in hotel establishments and in similar establishments, and recorded in writing, shall be sent to the licensing entity, within a time limit of 48 hours.

Article 47

(Registration of clients)

- 1.** Registration of clients is compulsory in hotel establishments.
- 2.** The registration instrument must mention:
 - a)* Client' s name;
 - b)* Nationality;
 - c)* Type and number of identification document;
 - d)* Place of residence;

e) Date and time of arrival and departure.

3. The registration elements must be kept in the establishment, in conditions that render them available for consultation by MGTO or by police authorities, for a minimum period of 5 years.

4. If the records are computerized, the time limit stated in the previous paragraph shall apply only to the respective computerized media.

Article 48

(Evidence of stay)

1. After the conclusion of the arrival and check-in formalities, clients of hotel establishments shall be given a document stating the following elements:

a) Trade name and address of the establishment;

b) Client's name;

c) Number of the lodging;

d) Date of arrival and foreseen date of check-out;

e) Number of persons occupying the lodging.

2. The document mentioned in the previous paragraph shall be written in Portuguese, Chinese and English.

Article 49

(Use of installations)

[Revoked by Decree-Law no. 40/99/M, of August 3 (which approved the 1999 Commercial Code)]

Article 50

(Services included in price)

[Revoked by Decree-Law no. 40/99/M, of August 3 (which approved the 1999 Commercial Code)]

Article 51

(Concept of lodging)

[Revoked by Decree-Law no. 40/99/M, of August 3 (which approved the 1999 Commercial Code)]

Article 52

(Extension of stay)

[Revoked by Decree-Law no. 40/99/M, of August 3 (which approved the 1999 Commercial Code)]

Article 53

(Reservations)

[Revoked by Decree-Law no. 40/99/M, of August 3 (which approved the 1999 Commercial Code)]

Article 54

(Maintenance of installations)

The installations, furniture, machinery and other equipment of hotel establishments and similar establishments shall be kept in proper conditions of presentation, operation and cleanliness; any deterioration or breakdown shall be promptly repaired.

Section II

Inspection

Article 55

(Object of inspection)

The object of inspective action is to verify the level of the installations and services and their conformity with the classification granted to the establishment, as well as the existence of any anomaly.

Article 56

(Right of inspection)

Entities who own or operate hotel establishments and similar establishments shall enable inspection agents of the licensing entities to have access to all premises of the establishment, whether public or service areas, as well as to all documentation or other elements pertaining to the services provided by the establishment that may be requested by such agents, under penalty of criminal procedure.

Article 57

(Identification)

Inspection agents shall exhibit the respective identification card whenever exercising their functions.

Article 58

(Offence report)

Whenever, in exercising their functions, inspection agents detect facts that amount to breaches of the provisions of this law or of its regulation, an offence report shall be drawn up, which shall follow the procedure set out in this law.

Chapter V

Breaches and offences

Section I

Sanctions in general

Article 59

(Definition)

The holders of licenses of hotel establishments or similar establishments shall be subject to the following penalties for breaches to the provisions of this law:

- a)* Warning notice;
- b)* Fine;
- c)* Temporary closure of the establishment;
- d)* Permanent closure of the establishment.

Article 60

(Repeat offences)

- 1.** For the purposes of this law, there is a repeat offence whenever, within a time limit of 1 year counting from sentencing without further possibility of appeal, an offence of the same type is committed in the same establishment.
- 2.** In case of repeat offences, the amount of the fine shall be the double of that previously applied or, if another penalty was applied, the next more serious penalty shall be applied.

Article 61

(Series of offences)

A series of offences, irrespective of the period of time in which they occur, or of the respective nature, is an aggravating circumstance.

Article 62

(Execution)

1. In case a fine is applied, the offender shall have 10 days, counted from the date of the notification, to effect voluntary payment.
2. In the absence of voluntary payment of the fine, its compulsory collection shall be pursued in the competent court, to which the necessary elements shall be sent; such elements have the force of executive title.

Article 63

(Cumulation of liability)

The imposition of any of the penalties mentioned in article 59 is without prejudice to any civil or criminal liability as may occur in the case.

Article 64

(Limits and criteria)

The penalties shall be fixed within the limits set in this law, having into account:

- a) The nature and circumstances of the offence;
- b) The damage or risk of damage for users, for third parties and to the image of the Territory's tourism;
- c) The preceding record of the offender;
- d) If the penalty to be applied is a fine, the economic capacity of the offender.

Article 65

(Suspension of execution)

1. Should grave justifying circumstances occur, the execution of the penalty may be suspended for a period of at least 6 months and of no more than 1 year.

2. If, during the period of suspension, a new offence is committed in the same establishment, the penalty to be applied shall be executed together with the suspended one, without prejudice to the provisions of articles 60 and 61 of this law.

Article 66

(Publicity)

Should the seriousness or the circumstances of the offence in the particular case so advise, the licensing entity may give publicity to the penalty applied, through the media.

Section II

Offences

Article 67

(Unlawful opening)

1. A breach of the provision of article 30 shall be punished with the immediate closure and a fine.

2. The fine mentioned in the previous paragraph is of:

a) 50 000,00 patacas for hotel establishments of Groups 1, 2 and 3 of paragraph 1 of article 5;

b) 30 000,00 patacas for hotel establishments of Group 4 of paragraph 1 of article 5 and for similar establishments of Groups 1, 2 and 3 of paragraph 1 of article 6;

c) 10 000,00 patacas for similar establishments of Groups 4 and 5 of paragraph 1 of article 6.

3. If article 14 has not been complied with, the fines mentioned in the previous paragraph shall be doubled.

Article 68

(Penal liability)

1. Persons who, having been notified for the immediate closure of an establishment, do not close such establishments within 24 hours subsequent to the notification, shall incur penal liability for disobedience to a legitimate order of a public authority.

2. Without prejudice to the provisions of paragraph 1 of article 85, the previous paragraph shall also apply to cases where the permanent or temporary closure of an establishment has been ordered.

3. The licensing entity may request the cooperation of the Public Security Police Force so as to effect the closure and sealing of establishments.

Article 69

(Undue classification)

A breach of the provisions of article 11 shall be punished with a fine of 10 000,00 patacas in the case of hotel establishments and of 5 000,00 patacas in the case of a similar establishment.

Article 70

(Unlawful changes)

1. A breach of the provisions of article 19 shall be punished with a fine of 15 000,00 to 30 000,00 patacas in the case of hotel establishments and of 7 500,00 to 15 000,00 patacas in the case of similar establishments.

2. Irrespective of the imposition of the penalty mentioned in the previous paragraph, the licensing entity shall set a time limit for submitting a request for the legalization of the changes made, subsequent to which the temporary closure of the establishment may be ordered.

3. If the changes are not approved, a time limit shall be set for the establishment to be brought back to the original design, subsequent to which, should there be no compliance, permanent closure shall be ordered.

Article 71

(Non-compliance of time limit for requesting additional registration)

A breach of the provision of paragraph 2 of article 33 shall be punished with a fine of 15 000,00 patacas in the case of hotel establishments and of 7 500,00 patacas in the case of a similar establishment.

Article 72

(Improper trade name)

A breach of the provision of paragraph 4 of article 34 shall be punished with a fine of 7 500,00 patacas in the case of hotel establishments and of 3 000,00 patacas in the case of a similar establishment.

Article 73

(Non-communication of price lists)

Breaches to the provisions of paragraphs 2 and 3 of article 35 shall be punished with a fine of 5 000,00 patacas in the case of a hotel establishment and of 2 500,00 patacas in the case of a similar establishment.

Article 74

(Sundry offences)

Offences to the provisions of paragraph 2 of article 36 and of articles 37, 38, 39, 40 and 46, shall be punished with a fine of 5 000,00 patacas.

Article 75

(Non-approved working times)

A breach of the provision of article 43 shall be punished with a fine of 10 000,00 patacas.

Article 76

(Compulsory registration)

A breach of the provision of article 47 shall be punished with a fine of 7 500,00 patacas.

Article 77

(Evidence of stay)

A breach of the provision of article 48 shall be punished with a fine of 2 500,00 patacas.

Article 78

(Maintenance of installations)

A breach of the provision of article 54 shall be punished with a fine of 2 500,00 to 7 500,00 patacas.

Article 79

(Sanitation, hygiene and security)

1. Offences relating to matters of sanitation, food hygiene, cleanliness and fire security shall be punished in accordance with the provisions of the following articles.

2. The repetition of offences on matters mentioned in the previous paragraph may determine a temporary closure of the establishment of up to 6 months.

Article 80

(Offences in matters of sanitation, hygiene and cleanliness)

1. The following namely are considered as offences in matters of sanitation, food hygiene and cleanliness:

- a)* Food products not properly protected or kept, or which have exceeded the respective validity dates;
- b)* Smoking, eating, spitting or coughing in areas for handling and preparation of food;
- c)* Handling and preparation of food without appropriate vests or in contact with the pavement;
- d)* Use of water other than that from the public supply;
- e)* Removal of siphons from wash basins, kitchen sinks, and toilets;
- f)* Accumulation of debris and garbage;
- g)* Lack of bins for garbage collection, or existence of bins without cover;
- h)* Storage of dinnerware and utensils in places which do not provide appropriate hygiene conditions;
- i)* Objects of personal use in contact with the areas for preparation or storage of food;
- j)* Bad state of conservation and cleanliness of the installations, equipments and utensils;
- l)* Existence of utensils susceptible of oxidation;
- m)* Existence of broken or cracked dinnerware or glasses;
- n)* Defective airing, ventilation and lighting;
- o)* Defective operation of the system for collection and exhaust of smokes and smells;
- p)* Infestation by rodents or insects;
- q)* Lack of disposable towels or hand dryers, as well as of the necessary articles of personal hygiene in sanitary installations;
- r)* Disrepair of flushing cisterns.

2. Offences in matters of sanitation, food hygiene and cleanliness shall be punished with a fine of 15 000,00 to 35 000,00 patacas.

Article 81

(Offences in matters of fire safety)

1. The following namely are offences in matters of fire safety:

- a) Lack or insufficient number of fire extinguishers;
- b) Existence of fire extinguishers beyond the validity date;
- c) Lack of exit signs;
- d) Lack of or defective safety emergency lighting;
- e) Blockage of exits or of windows or balconies;
- f) Occupation of escape routes;
- g) Damage to smoke chambers;
- h) Use of decorative materials, namely wood, without protection against fire;
- i) Existence of fuels beyond the limits set or of a non-approved type;
- j) Exceeding the capacity of the establishment.

2. Offences in matters of fire safety shall be punished with a fine of 15 000,00 to 35 000,00 patacas.

Article 82

(Permanent closure)

1. The penalty of permanent closure of the establishment may be applied if, as a result of repeated or serious offences, keeping it in operation would pose a risk for users or for third parties, or of damage to the image of the tourism of the Territory.

2. For the purpose of the previous paragraph, namely offences in matters of sanitation, food hygiene, cleanliness and fire safety shall be deemed as serious.

Article 83

(Reopening of establishment permanently closed)

1. An establishment that has been permanently closed as a result of the application of the penalty mentioned in the previous article can only reopen provided that: its ownership has been transferred; there has been a change of trade name; and the provisions of articles 14 and following have been complied with.

2. For the purpose of the previous paragraph, a transfer in favor of any of the persons mentioned in paragraph 2 of article 579 of the Civil Code, or of a company of which the owner, operator or person responsible at the time of the application of the penalty is a shareholder, director, administrator, or manager, shall not produce legal effect.

Article 84

(Correction of causes of offence)

1. Irrespective of the application of a penalty as may occur in the case, the licensing entity, if the nature of the offence so justifies, shall notify the owner or operator entity of the need to correct the situation that gave rise to the offence within a time limit that shall be set.

2. Should the owner or operator entity not comply with a notification made to him within the time limit that has been set, the licensing entity may order the temporary closure of the establishment until the situation that gave rise to the offence is corrected.

Article 85

(Effects of permanent or temporary closure)

1. If any of the penalties mentioned in subparagraphs *c*) and *d*) of article 59 is applied to a hotel establishment, the establishment shall only be closed after the clients staying in it at the date of notification of the penalty have ended their stay.

2. However, the admission of new clients is prohibited, even if the respective reservations have been made prior to the date of notification of the penalty.

Article 86

(Breach of generic duties)

1. Owner and operator entities shall keep the establishments, the respective premises, and service, in conformity with the rules stated in this law and its regulation.

2. A breach of the provision of the previous paragraph shall be punished with a fine of 2 500,00 to 15 000,00 patacas, if a specific penalty does not apply.

Article 87

(Judicial decisions)

Judicial convictions that can no longer be appealed, which directly or indirectly consider the activity or operation of hotel establishments or of similar establishments, shall be a basis for possible application of sanctions; for this purpose, the licensing entity shall be sent a certified copy of them.

Article 88

(Liability for offences)

The liability for breaches of this law and of its regulation falls upon the holder of the license.

Section III

Process

Article 89

(Competence for investigation)

Processes relating to breaches of the provisions of this law shall be organized and processed by the licensing entity, without prejudice to the assistance of other entities.

Article 90

(Reporting of offences)

The entities intervening in the licensing procedure mentioned in article 16, the police authorities, and the clients of hotel establishments and similar establishments, who may become aware of any offences to the provisions of this law, shall communicate such to the licensing entity.

Article 91

(Offence report)

- 1.** Once there is awareness of an offence, an offence report of it shall be drawn up, by the competent services of the licensing entity.
- 2.** The offence report shall state the complete identification of the establishment, the place, date and time of the occurrence of the offence, the detailed indication of such offence, with reference to the legal provisions breached, and any other elements deemed convenient.
- 3.** The offence report also shall be signed by the offender; it shall expressly mention any refusal to sign it, that being the case.

Article 92

(Investigation officer)

- 1.** Once the report has been drawn up, an investigation officer shall be appointed.

2. The investigation shall be started within a maximum time limit of 8 days, counted from the date of the offence report.

Article 93

(Investigation)

1. The investigation comprises all enquiries and activities intended to ascertain the occurrence of the offence, including the collection of evidence, in order to enable a justified decision.

2. The investigating officer conducts *ex officio* all activities necessary for the enquiries mentioned in the previous paragraph; the offender shall be heard, and the respective statements shall be recorded in writing.

Article 94

(Report)

1. Once the investigation is concluded, the investigating officer shall prepare a complete, succinct and justified report, within a time limit of 5 days, stating namely the identification, qualification and seriousness of the offence, the legal provisions breached and the proposed penalty or archival of the process.

2. The process shall be submitted for decision by the hierarchy, which may order the archival of the process or the formulation of an accusation.

Article 95

(Accusation)

1. If an accusation is made, it shall be notified to the offender.

2. The accusation shall have a specified indication of the offence committed and of the corresponding penalty, as well as the other elements of the offence report.

3. If he so wishes, the offender shall present his defense in writing, within a time limit of 5 business days counted from receipt of the notification, mentioning in that moment any means of evidence allowed by law.

Article 96

(Processing)

1. Once the defense has been received, the investigating officer shall undertake the activities requested, for which he has competence, and which are essential for ascertaining the existence of an offence, and shall prepare a proposal of final decision, which he shall submit to the decision of the head of the licensing entity.

2. The head of the licensing entity shall either confirm the existence of an offence and determine the applicable penalty, or shall order the archival of the file.
3. If the decision is different from the final proposal formulated by the investigation officer, it shall be justified.
4. The final decision shall be notified to the offender.

Chapter VI

Final and transient provisions

Article 97

(Fees)

1. Fees are due for conducting inspections, and for the issue and renewal of licenses, as stated by regulation.
2. The amounts arising from fees mentioned in the previous paragraph, as well as the amount of fines applied, shall be income of the Tourism Fund or of the Municipalities, depending on the competence for licensing the establishment at issue.

Article 98

(Priority in hiring employees)

Hotel establishments and similar establishments shall give priority in hiring of employees to graduates of the High School of Tourism and of the School of Tourism and Hotel Industry.

Article 99

(Reserve of traineeships)

1. Hotel establishments classified as five and four stars shall annually agree with the schools mentioned in the previous article, or with the entity of they may be part of, a number of places for traineeships by their graduates.
2. For the purpose of the previous paragraph, the hiring of trainees shall be subject to applicable labor law.

Article 100

(Scope of application)

This law shall apply to all hotel establishments and similar establishments existing by the date of its entry in force, with the exception of paragraph 5 of article 34.

Article 101

(Pousadas)

Hotel establishments classified as *pousada*, existing by the date of entry in force of this law, may keep such designation; however, a corresponding designation stated by regulation shall be applied to them.

Article 102

(Reclassification of establishments)

Licensing entities shall have a period of 1 year from the date of entry into force of this law to reclassify all hotel establishments and similar establishments existing in the Territory in accordance with the provisions of further regulation.

Article 103

(Issue *ex officio* of license)

1. The licensing entities, within the time limit mentioned in the previous article, shall issue the license mentioned in this law to all establishments licensed under previous legislation which do not currently have it.
2. The licenses granted under the revoked legislation shall lapse with the first license issued in accordance with this law.

Article 104

(Catering)

Units for the industrial production of meals to be supplied abroad (‘catering’), regulated by special laws, are excluded from the scope of this law.

Article 105

(Time limit for sending to Municipalities)

The processes relating to similar establishments of groups 4 and 5 of paragraph 1 of article 6 shall be sent by MGTO to the Municipalities, within 180 days, counted from the date of entry into force of this law.

Article 106

(Regulation)

The regulation of this law shall be approved by *portaria* of the Governor.

Article 107

(Revocation)

Decree-Law no. 30/85/M, of April 13, as well as the Regulation for Hotel Activity and Similar Activities that it approved, are hereby revoked.

Article 108

(Entry into force)

This law shall come into force together with the regulation mentioned in article 106.

Approved 26 March 1996.

To be published.

The Governor, Vasco Rocha Vieira.