

Assembly of the Republic
Law 4/2004 of 17 July

Bearing in mind that Mozambique has tourism resources that place it in a favourable and competitive position in the regional and international tourism market;

Considering that tourism needs to be developed in a sound, sustainable way and in accordance with its cross cutting nature;

Recognising tourism's eminently dynamic character in promoting jobs and generating foreign currency, and the need to bring existing legislation up to date, it is incumbent upon the State to update the relevant legal instruments.

In these terms and pursuant to article 135(1) of the Constitution, the Assembly of the Republic determines:

CHAPTER I

General provisions

ARTICLE 1

(Definitions)

The meanings of the terms used herein are those set out in the glossary that is attached to and forms integral part of this Law.

ARTICLE 2

(Purpose)

This Law establishes the legal framework for promoting and carrying out tourism activities.

ARTICLE 3

(Objectives)

The objectives of this Law are:

- a) To drive the country's economic and social development, while respecting its forest, faunal, mineral, archaeological and artistic heritage, which should be preserved and passed on to future generations;
- b) To preserve historical and cultural values and promote national pride;
- c) To contribute to the harmonious and balanced development of the country;
- d) To contribute to job creation, economic growth and poverty relief;
- e) To stimulate the domestic private sector to participate in the promotion and development of tourism resources;
- f) To establish mechanisms for inter-institutional coordination and participation;
- g) To promote the conservation of biodiversity and marine and land ecosystems;
- h) To improve the standard of living of local communities, encouraging their active participation in the tourism sector;
- i) To encourage measures for the safety and tranquillity of tourists, consumers and suppliers of tourism services;
- j) To ensure equal rights and opportunities for all those subject to this Law.

ARTICLE 4

(Scope)

This Law applies to tourism activities, public sector activities directed at promoting tourism, suppliers of tourism products and services, tourists and consumers of tourism products and services.

ARTICLE 5

(Organisation and functioning)

The tourism sector is organised and functions through a system that incorporates the public and private sectors as well as other stakeholders in tourism activities.

CHAPTER II

Planning tourism activity

ARTICLE 6

(Tourism policy and strategic planning for tourism development)

The Council of Ministers approves:

- a) Government policy for the tourism sector;
- b) The strategic plan for development of tourism;
- c) The inter-sector strategy aiming at eradicating any form or organisation of sexual tourism involving children.

ARTICLE 7

(Sustainable development of tourism)

1. The development of tourism should respect the environment and aim to achieve sustainable economic growth.
2. Public authorities at central and local level and at the level of autarchic shall give preference to and encourage tourism development with low environmental impact, so as to preserve, among other things, forest, faunal, water and energy resources and protected zones.
3. Urban planning, architectural design and the operation of tourist undertakings shall be done in a way that seeks to improve their integration into the local economic and social environment.

ARTICLE 8

(Tourism zones)

1. Areas that, due to the relevant characteristics of their natural and cultural resources and historical value, are capable of generating flows of tourism may be declared tourism zones.
2. The Council of Ministers shall declare tourism zones.
3. The diploma declaring a tourism zone must contain the particulars and norms laid down below, in addition to conditioning factors that are specific to each zone, with due observance of environmental legislation:
 - a) Geographical coordinates;
 - b) Regulatory norms governing the occupation of the zone.

ARTICLE 9

(Conservation areas)

1. In conservation areas may be carried out Eco-tourism, safari, including sustainable hunting, recreational diving and other specified activities in accordance with management plans and other legal provisions.
2. Tourism in conservation areas shall participate in the conservation of ecosystems, habitats and species in the areas in question.

ARTICLE 10

(Undertakings of relevance to tourism)

The Council of Ministers may declare undertakings as being of relevance to tourism, in terms to be established in regulations, those establishments, projects and other activities of an economic, cultural, environmental and amusement nature which, by their location, the characteristics of the service they provide and their premises, materially support tourism or are a tourist attraction in the areas where they are located.

ARTICLE 11

(Undertakings of touristic utility)

Undertakings of a tourist nature, which satisfy the principles and requirements to be established in a Council of Ministers diploma, may be declared as undertakings of tourist utility.

CHAPTER III

Training in and promotion of tourism development

ARTICLE 12

(Training in tourism)

Training in tourism at various levels of education shall be subject to co-ordination measures between the government agency that oversees tourism and other public sector bodies, as well as private institutions, with a view to preparing training plans and programmes.

ARTICLE 13

(Promotion of tourism and technical co-operation abroad)

The Council of Ministers shall define a strategy to promote the country as a tourist destination, conducting studies that will provide technical bases for decisions on the subject, and defining actions aimed at establishing agreements with other countries and international bodies, as part of the development of programmes and projects for co-operation in tourism.

ARTICLE 14

(Incentives to promote tourism activity)

Investments in new undertakings as well as improvements may, by virtue of their socio-economic interest in the development of the sector, enjoy special incentives to be defined by the Council of Ministers.

CHAPTER IV

Tourism activities

ARTICLE 15

(Suppliers of tourism products and services)

Individuals or corporate entities that carry out the following activities are suppliers of tourism products and services:

- a) Tour and travel agencies;
- b) Tour agents;
- c) Tourist entertainment;
- d) car hire for tourism;
- e) Tourist complexes;
- f) Camping;
- g) Eco-tourism;
- h) Timesharing;
- i) Hotel industry;
- j) Tourist information;
- k) Gambling;
- l) Supplementary tourist accommodation;
- m) Recreational diving;
- n) Catering and beverages;
- o) Tourist transport;
- p) Safari, including game reserve;

q) Other activities established by the Council of Ministers.

ARTICLE 16

(Duties)

1. Suppliers of tourism products and services have the following duties:

- a) To meet the requirements established in regulations for each type of tourism product or service;
- b) To present prices and fees to the public in a visible manner, in domestic currency and in the official language and, optionally, in others;
- c) To conserve the environment and comply with the rules on environmental protection;
- d) To pursue their activities with respect to cultural expressions, traditions and practices;
- e) To preserve and, in the event of damage, repair public and private property connected with tourism;
- f) To provide for the existence of appropriate systems of insurance and assistance to guarantee civil liability for personal injury and damage to property caused to tourists and consumers of tourism products and services, as well as to third parties, due to errors, acts or omissions occurring, with or without fault, during the performance of tourism activity.

2. In addition to the duties established in the preceding paragraph, suppliers of tourism products and services shall, especially:

- a) Provide services they have been authorised for, without discrimination on the basis of nationality, social circumstance, race, sex, ethnic origin, religion or political affiliation;
- b) Demarcate areas for smokers and non-smokers;
- c) Adapt tourist establishments and their equipment to make them usable by persons with physical disabilities.

ARTICLE 17

(Rights)

Suppliers of tourism products and services have the following rights:

- a) To carry out their activity freely, in conformity with the provisions of this Law and its implementing regulations;
- b) To receive authorisation to carry out their activity from the competent administrative authorities, when the requirements laid down in this Law have been met;
- c) To appear in the sector's official tourist brochures and guides;
- d) To participate in programmes for tourism promotion, support and capacity building.

ARTICLE 18

(Carrying out activities)

Tourism activities carried out in terms of this Law are subject to prior licensing.

ARTICLE 19

(Fees)

Licensing is subject to payment of fees to be determined by the Council of Ministers.

CHAPTER V

Rights and duties of tourists and consumers of tourism products and services

ARTICLE 20

(Rights)

Without prejudice to other rights recognised by the legal order in force, tourists and consumers of tourism products and services have the following special rights:

- a) To obtain objective, accurate and complete information about each and all of the conditions, prices and facilities offered by suppliers of tourism products and services;
- b) To enjoy tourism products and services on the conditions and at the prices agreed upon;
- c) To obtain documents that confirm the contractual terms and the agreed prices;
- d) To enjoy tranquillity, privacy, personal safety and security of their property;
- e) To report grievances and make complaints about the supply of tourism products or services according to the law, and to obtain opportune and adequate responses;
- f) To enjoy tourism services in good conditions of hygiene and cleanliness;
- g) To obtain proper information for the prevention of accidents and contagious diseases.

ARTICLE 21

(Duties)

Tourists and consumers of tourism products and services have the following duties:

- a) To comply with the laws and regulations in force;
- b) To respect the natural, historical and cultural heritage of communities, as well as their customs, beliefs and practices;
- c) To respect the environment.

CHAPTER VI

Standards of quality and supervision of tourism activity

ARTICLE 22

(Standards of quality)

Suppliers of tourism products and services shall observe the applicable standards of quality.

ARTICLE 23

(Supervision)

Activities covered by this Law are subject to supervision, on terms to be laid down in regulations.

CHAPTER VII

Penalties and contestations

ARTICLE 24

(Common sanctions)

1. Without prejudice to civil and criminal liability, violations of the provisions of this Law are punishable by the following sanctions:

- a) Warning;

- b) Fine;
- c) Temporary suspension of the establishment from business;
- d) Closure of the establishment;
- e) License revocation;
- f) Administrative prohibition;
- g) Demolition.

2. The Council of Ministers shall be responsible for issuing regulations on the sanctions referred to in paragraph 1 of this article, or other sanctions that are specific to each tourism activity.

ARTICLE 25

(Appeals)

Punitive decisions can be reclaimed and appealed in terms of the law.

CHAPTER VIII

Prevention and repression of child sex tourism

ARTICLE 26

(Criminal offences involving child sex tourism)

The practice of child sex tourism, whether as a supplier of tourism products and services or as a consumer or tourist, with the involvement of minors, is considered to be a criminal offence punishable under the criminal law, as follows:

- a) Crime of living off a prostitute's earnings;
- b) Aggravated crime of living off a prostitute's earnings;
- c) Corruption of minors.

CHAPTER IX

Final and transitional provisions

ARTICLE 27

(Repeals)

Decree-Law 49 399, of 24 November 1969, extended to Mozambique by Administrative Rule (Portaria) 218/74 of 23 March, and all other legislation that is contrary to the provisions of this Law, are repealed.

ARTICLE 28

(Regularisation period)

Suppliers of tourism products and services that already have authorisation to carry out the activities referred to in article 15 hereof on the date when this Law enters into force shall regularise their activities by registering their licences within a period of one year.

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adrian.frey@caldeiraadvogados.com MOZLEGAL is a project of José Caldeira &
Associados – Attorneys and Consultants August 2004 New Tourism Law Law 4/2004 of
17 July

ARTICLE 29

(Supplementary regulations)

1. The Council of Ministers shall be responsible for establishing implementing regulations for this Law within one year after its entry into force.
2. The roles and competencies of public authorities at local and central level and at the level of autarchic authorities shall be defined under regulations to be issued.

ARTICLE 30

(Entry into force)

This Law enters into force ninety days after its publication.

Approved by the Assembly of the Republic on the 14th of April 2004.

The President of the Assembly of the Republic, Eduardo Joaquim Mulémbwè

Promulgated on the 28th of May 2004.

Let it be published.

The President of the Republic,
Joaquim Alberto Chissano.

Annexe Glossary

For the purposes of this Law:

1. Tourism activity – means commercial activity that contributes to the provision of accommodation, catering and/or meeting the needs of people who are travelling for pleasure or on business, or is carried out for purposes of a touristic nature.
2. Travel and tour agency – means a business that, holding the respective licence and being established in terms of this Law, carries out an activity aimed at making tourism goods and services available to those who wish to use them.
3. Tour agent – means an individual person or corporate entity operating as an intermediary between the tourist and a business that provides services in the tourism area.
4. Tourist amusement – means a set of activities of a cultural, sport, recreational or other nature, which are carried out in a tourist region, area or establishment and are aimed at attracting tourists and filling the free time of people who are there.
5. Conservation areas – means areas destined for the preservation of ecological processes, ecosystems and natural habitats, as well as the preservation and recovery of viable population species in their natural locations.
6. Camping – means leisure activity carried out on land that is open to the general public, for a fee, and is normally used for putting up tents or other similar items and for trailer homes, caravans or campers.
7. Tourist complex – means an establishment set up within a demarcated area with interdependent buildings, which includes, in addition to accommodation, catering facilities and beverages, at least one activity or project declared as being of interest to tourism.
8. Local community – means a collection of families and individuals living within a territorial area that is classed as a locality or lower, that aims to safeguard common interests by protecting housing areas, farming areas, whether these are cultivated or fallow, forests, places of cultural importance, pastures, water sources, hunting areas and expansion areas.
9. Consumer of tourism products and services – means someone who does not fit the definition of a tourist but uses tourist services and facilities.
10. Eco-tourism – means a set of tourism activities developed in natural areas, ensuring conservation of the environment and the well being of local communities, with the involvement of tourists and consumers of tourism products and services.
11. Timesharing – means a system of joint use of real estate that allows holiday accommodation or second homes to be held in usufruct, fixed or divided into periods of time.
12. Undertakings of interest to tourism – means establishments, projects and other activities of an economic, cultural, environmental or amusement nature which, by their location, the characteristics of the service they provide and their premises, materially support tourism or are a tourist attraction in the areas where they are located.

13. Tourist undertakings – means establishments whose purpose is to provide temporary accommodation, catering or amusement to tourists, and which operate using a set of structures, equipment and supplementary services.
14. Supplier of tourism products and services – means a public or private sector person that supplies products and services to tourists as a source of income or business.
15. Hotel industry – means an activity whose purpose is to provide, for remuneration, temporary accommodation and other additional or ancillary services, with or without meals.
16. Tourist information – means an activity carried out by a tour guide or other person with references and professional competence, who is entrusted with accompanying tourists, on a full or part time basis, on visits to monuments, museums and tourist places, and/or providing them with all forms of commentaries and explanations
17. Games of chance – means non-scientific games played at casinos, such as roulette, baccarat, banca francesaTN, chemin de fer, twenty-one, among others.
18. Supplementary tourist accommodation – means non-hotel undertakings whose purpose is to provide temporary accommodation, with or without additional or ancillary services, namely, holiday villages, camps or resorts, tourist apartments, youth hostels and private houses.
19. Recreational diving – means an activity carried out by a person who goes underwater or on the surface, equipped with a breathing apparatus.
20. Provision of services – means the obligation of one party to provide another with a particular product of his intellectual or manual labour, for consideration.
21. Tourism product – means a set of products and services provided to tourists, in particular, transport, accommodation, food, and leisure, wildlife and sightseeing activities.
22. Catering and beverages – means an activity whose purpose is to provide meals and/or beverages, for remuneration, and variety shows or dance performances may be offered in the same place.
23. Tourist transport – means a duly licensed activity whose purpose is to transport tourists or consumers of tourism products or services from one place to another.
24. Tourism – means a combination of professional activities related to transport, accommodation, food, and leisure activities for tourists.
25. Sustainable tourism – means tourism based on environmental management that meets the needs of present generations without comprising the environmental balance and the ability of future generations to meet their needs as well.
26. Cynegetic tourism – means hunting, photography, filming and watching of wild animals for recreational or commercial purposes.
27. Child Sex Tourism – means trips arranged with infrastructures and networks in the tourism sector, the main purpose of which is sexual relations of a commercial nature between a tourist and a minor.
28. Tourist – means a person who spends at least one night at a place that is not his ordinary place of residence, and whose journey is not for purposes of employment or remunerated activity at the place visited. Thus, holiday-makers, businessmen, pilgrims, students, sportsmen, congressmen, members of official

delegations and other travellers are classified as tourists provided that they make the journey away from their ordinary place of residence and work and use services and facilities for tourists. Travellers departing from ports, hangars and airports or who enter national territory by any other route are also considered tourists, even if their stay is shorter than 24 hours.

29. Touristic utility – means the quality attributed to undertakings of a touristic nature that satisfy the requirements and principles to be defined by the Council of Ministers.
30. Tourist interest zones – means areas that, due to the relevant characteristics of their natural and cultural resources and historical value, are capable of generating flows of national, regional and international tourism, and whose economic dynamic is based mainly on the development of tourism activity.