

**ECONOMY AND INNOVATION MINISTRY**

**Decree-Law n° 228/2009  
of September 14**

[...]

**ANNEX**

**Republication of Decree-Law n° 39/2008 of March 7**

**CHAPTER I**

**General provisions**

**Article 1**

**Object**

This decree-law enacts legislation governing the setting up, running and functioning of tourism enterprises.

**CHAPTER II**

**Tourism enterprises**

**SECTION I**

**Concept and types**

**Article 2**

**Concept of tourism enterprises**

1 - Tourism enterprises are deemed to be establishments intended to provide accommodation services against remuneration, having an appropriate set of facilities, equipment and complementary services for their operation.

2 - For the purposes of this decree-law the following are not considered tourism enterprises:

*a)* Facilities or establishments that, though intended to provide accommodation, are operated on a non-profit basis or exclusively for charitable purposes, use of which is restricted to limited groups;

*b)* Facilities or establishments that, though intended to provide temporary accommodation for profit, have the nature of local lodging in accordance with the following article.

**Article 3**

**Local lodging**

1 - Local lodging establishments are considered to be villas, apartments and lodging establishments that, having authorisation of use, provide temporary accommodation services for remuneration, but do not meet the requirements to be considered tourism enterprises.

2 - Local lodging establishments shall meet the minimum health and safety requirements set by joint order-in-council of the Government members responsible for the areas of tourism and local administration.

3 - Local lodging establishments that meet the requirements of this article must be registered with the municipal council of the respective area.

4 - Only local lodging establishments registered with the municipal council of the respective area may be marketed for tourism purposes either by their owners, or by travel agencies.

5 - Municipal councils shall provide Turismo de Portugal, IP, with IT access to the register of local lodging.

6 - The establishments referred to in this article shall identify themselves as local lodging and cannot, under any circumstance, use the tourism and/or tourist qualification, or any grading system.

**Article 4**

**Types of tourism enterprises**

1 - Tourism enterprises may be of the following types:

- a) Hotels;
- b) Holiday villages;
- c) Tourist apartments;
- d) Resorts;
- e) Town and country house tourism accommodation;
- f) Tourism enterprises in rural areas;
- g) Campsites and caravan sites;
- h) Nature tourism enterprises.

2 - The specific requirements governing the setting up, grading and operation of each type of tourism enterprise referred to above are defined:

a) By joint order-in-council of the Government members responsible for the areas of tourism and spatial planning, in the cases of indents a) to d);

b) By joint order-in-council of the Government members responsible for the areas of tourism, local government and agriculture and rural development, in the case of indents e) to g).

## SECTION II Common requirements

### Article 5 General setting-up requirements

1 - Setting up tourism enterprises involving urbanisation operations as defined in the urbanisation and construction legislation must meet the standards set out in that legislation, as well as the technical construction standards applicable to buildings in general, particularly regarding fire safety, health, hygiene, noise and energy efficiency, without prejudice to the provisions of this decree-law and respective regulations.

2 - The site chosen to set up tourism enterprises shall take into account legally-defined location restrictions in order to safeguard the safety of persons and property from possible natural and technological hazards.

3 - Tourism enterprises must have an internal sewerage network of connected to the general networks that lead to general wastewater systems appropriate to their disposal, especially through the public network, or a collection and treatment system appropriate to the amount and nature of these waters in accordance with legislation in force in those cases where the sewage is not received by the municipal councils.

4 - Where there is no public water supply, tourism enterprises must be equipped with a private water supply system having a properly controlled source.

5 - For the purposes of the preceding paragraph, the water abstraction must have conditions appropriate to the protection of health and the system must be provided with treatment processes required to ensure the potability or to maintain the potability of the water, in accordance with water-quality standards in force and, for the purpose, physical and chemical and/or microbiological analyses shall be performed.

### Article 6 Conditions of access

1 - The conditions of access to be met in the design and construction of tourism enterprises shall meet the technical standards laid down in Decree-Law 163/2006 of August 8.

2 - Without prejudice to the preceding paragraph, all tourism enterprises, except as provided for in Articles 4.1(e) and 4.1(f), shall have facilities, equipment and at least one accommodation unit allowing their use by the disabled.

### Article 7 Accommodation units

1 - Accommodation unit is a circumscribed space for exclusive, private use by a user of the tourism enterprise.

2 - Accommodation units may be rooms, suites, apartments or villas, depending on the type of tourism enterprise.

3 - All accommodation units must be identified outside the front door in a conspicuous place.

4 - The front doors of the accommodation units must have a security system allowing access only by the user and the staff of the establishment.

5 - The accommodation units must be soundproofed and have windows or shutters in direct communication with the exterior.

#### Article 8

#### **Capacity**

1 - For the sole purpose of the tourism operation, and with the exception of the provisions paragraph. 4, the capacity of tourism enterprises is determined by the corresponding number of fixed beds installed in the accommodation units.

2 - Convertible beds may be installed in the accommodation units provided they do not exceed the number of fixed beds.

3 - Supplementary portable beds may be installed in the accommodation units.

4 - The capacity of campsites and caravan sites is determined by the usable area allocated to each user, in accordance with the provisions in the order-in-council referred to in Article 4.2(b).

#### Article 9

#### **Common-use equipment**

The requirements governing common-use equipment that forms part of tourism enterprises, with the exception of safety/security requirements, are defined by order-in-council of the Government member responsible for tourism.

#### Article 10

#### **Shops or offices**

Shops or offices may be set up in tourism enterprises provided that their number and location do not affect the function and use of the common-use areas.

### SECTION III

#### **Hotels**

#### Article 11

#### **Concept of an hotel**

1 - Hotels are those tourism enterprises designed to provide temporary accommodation and other ancillary or support services, with or without meals, on a daily rental basis.

2 - Hotels can be classified in the following groups:

a) Hotels;

b) Aparhotels (service flats), when most of the accommodation units consist of apartments;

c) *Pousadas* (inns), when managed directly by ENATUR - Empresa Nacional de Turismo, SA, or by third parties through franchise or assignment-of-management contracts, located in buildings classified as national monuments, public-interest buildings, buildings of regional or municipal interest, or buildings that, for their age and architectural and historical value, are representative of a particular era.

#### Article 12

#### **Setting-up conditions**

1 - Hotel establishments shall have at least 10 accommodation units.

2 - Hotels may occupy an independent part of a building, consisting of complete and contiguous floors, or the whole of one or more buildings constituting a harmonious, interlinked whole and forming part of a set of contiguous spaces, having coherent architecture and functional characteristics.

3 - A single building may accommodate hotels of different groups or categories.

**SECTION IV**  
**Holiday Villages**

Article 13  
**Concept of holiday village**

1 - Holiday villages are tourism enterprises consisting of a set of functionally interdependent facilities of coherent architectural design, located in spaces having territorial continuity, even though crossed by thoroughfares and municipal roads, secondary railway lines, water lines and strips of land assigned to the protection and conservation of natural resources, designed to provide accommodation and ancillary support services for tourists.

2 - Buildings forming part of holiday villages cannot exceed three floors, including the ground-floor, without prejudice to the spatial-planning instruments or valid, effective subdivision permits that stipulate a lesser number of floors.

3 - Holiday villages shall have at least 10 accommodation units and, in addition to general setting-up requirements, infrastructure and equipment referred to in Article 16, indents *a)* to *f)*.

**SECTION V**  
**Tourist apartments**

Article 14  
**Concept of tourist apartments**

1 - Tourist apartments are tourism enterprises consisting of a coherent set of furnished and equipped accommodation units intended to provide accommodation and other complementary and support services and for tourists.

2 - Tourist apartments may occupy an independent part of a building, consisting of complete and contiguous floors, or all of one or more buildings constituting a harmonious, interlinked whole and forming part of a set of contiguous spaces having harmonious, architecture and functional characteristics.

3 - Tourist apartments shall have at least 10 accommodation units.

**SECTION VI**  
**Resorts**

Article 15  
**Concept of resort**

1 - Resorts are tourism enterprises consisting of functionally interdependent facilities located in areas having territorial continuity, even though crossed by thoroughfares and municipal roads, secondary railway lines, water lines and strips of land assigned to the protection and conservation of natural resources, designed to provide accommodation and ancillary support services for tourists, under a common shared-services and common-use equipment management, comprising at least two tourism enterprises of one of the types referred to in Article 4.1 hereof, one of which necessarily a five- or four-star hotel, and also autonomous leisure facilities and a restaurant.

2 - For the purposes of this article, autonomous leisure facilities includes, in particular:

- a)* Golf courses;
- b)* Marinas and pleasure-craft ports and docks;
- c)* Spa, balneotherapy, thalassotherapy and similar facilities;
- d)* Convention and congress centres;
- e)* Hippodromes and equestrian centres;
- f)* Casinos;
- g)* Racing circuits and karting circuits;
- h)* Theme Parks;
- i)* Diving centres and schools.

3 - The restaurant may form part of one of the tourism enterprises that are a part of the resort.

4 - Without prejudice to Article 10 hereof, only tourism enterprises may be set up in resorts.

5 - Tourism enterprises of differing categories may be set up at resorts.

6 - When located in resorts, holiday villages are always deemed to be located in areas having territorial continuity.

7 - Paragraph 4 notwithstanding, single-family villas having a permit authorising their use for autonomous tourism purposes may be located at resorts, provided that:

a) The management of these accommodation units for tourism purposes is undertaken by the entity running one of the tourism enterprises of the resort;

b) The mandatory setting-up and service requirements for the accommodation units of holiday villages of the same category as the tourism enterprise that manages the villas are complied with;

c) The accommodation units are included in the deed of incorporation of the resort and are subject to payment of the service charge fixed in the deed of incorporation.

#### Article 16

### **Minimum requirements for resorts**

In addition to the general setting-up requirements, resorts shall have at least the following infrastructure and equipment:

a) Internal roadways allowing emergency-vehicle traffic;

b) In the event that motor-vehicle traffic is allowed, internal roadways of a minimum width of 3 m or 5 m, depending on whether they are for one-way or two way traffic, unless lower minimum limits are allowed by the applicable municipal spatial planning requirements;

c) Common-use parking areas;

d) Common-use surrounding outdoor green areas and gardens;

e) Concierge;

f) Common-use swimming pool;

g) Sports and leisure facilities.

#### SECTION VII

### **Town and country house tourism accommodation**

#### Article 17

#### **Concept of town and country house tourism accommodation**

1 - Family-run establishments located in old, private buildings that for their architectural, historic or artistic value represent a certain era, notably palaces and manor houses, located in urban or rural areas, are considered town and country house tourism accommodation.

2 - The maximum number of accommodation units for guests is 15 at town and country house tourism accommodation.

#### SECTION VIII

### **Tourism enterprises in rural areas**

#### Article 18

### **Tourism enterprises in rural areas**

1 - Establishments intended to provide accommodation services to tourists in rural areas that have for their operation an appropriate set of facilities, structures, equipment and complementary services, with a view to providing a complete, diverse tourism product in rural areas are deemed tourism enterprises in rural areas.

2 - Tourism enterprises in rural areas referred to in indents a) to c) of the following paragraph shall preserve, restore and enhance the architectural, historic natural and landscape heritage of the localities and regions where they are located, through reconstruction, rehabilitation or enlargement of existing buildings in order to ensure their harmony with the surroundings.

3 - Tourism enterprises in rural areas can be graded under the following groups:

a) Country homes;

b) Agro-tourism;

c) Rural hotels.

4 - Properties located in villages and rural areas which, for their architecture, building materials and other characteristics fit in with the typical local architecture are country homes.

5 - When cottages are located in villages and are run in an integrated manner by a single entity, they are considered village tourism.

6 - Properties located on farms that allow guests to accompany and get to know agricultural activity, or take part in the work carried on there in keeping with the rules laid down by the farm manager are agro-tourism enterprises.

7 - Rural hotels are hotels located in rural areas which, for their architectural design and building materials are in keeping with the dominant characteristics of the region, and they may also be set up in new buildings.

8 - The maximum number of accommodation units for guests at the establishments referred to in paragraph 3, indents *a*) and *b*) is 15.

## SECTION IX Campsites and caravan sites

### Article 19 Concept of campsites and caravan sites

1 - Undertakings set up on land with duly-established boundaries and provided with structures designed to allow tents, trailers, caravans or motor homes and other material and equipment necessary to camping and caravanning to be set up or parked are campsites and caravan sites.

2 - Campsites and caravan sites can be public or private, depending on whether they intended for the general public or only for members or beneficiaries of the respective entities that own or run them.

3 - Campsites and caravan sites may be for exclusive use by one of the types of equipment referred to in paragraph 1 and shall use the corresponding description.

4 - Campsites and caravan sites may be provided with ancillary accommodation facilities provided the latter do not occupy more than 25% of the total area of the site set aside for campers, under the regulations of the order-in-council referred to in Article 4.2(*b*).

## SECTION X Nature tourism accommodation

### Article 20 Concept of nature tourism enterprises

1 - Establishments intended to provide accommodation services to tourists in classified areas or in other areas having natural values, provided for their operation with a suitable set of facilities, structures, equipment and additional services related to environmental animation, visits to natural areas, nature sport and environmental interpretation are nature tourism enterprises.

2 - Nature tourism enterprises are recognised as such by Instituto de Conservação da Natureza e da Biodiversidade, IP, in accordance with the criteria set out by order-in-council of the Government members responsible for the areas of the environment and tourism.

3 - Nature tourism enterprises may be of any of the types listed in Article 4.1, indents *a*) to *g*), and shall comply with the setting-up, grading and operating requirements stipulated for the type in question.

## CHAPTER III Competencies

### Article 21 Competencies of Turismo de Portugal, IP

1 - Turismo de Portugal, IP, is charged with exercising those powers specifically provided for in this decree-law concerning the tourism enterprises referred to in Article 4.1, indents *a*) to *d*), and Article 18.3(*c*).

2 - Within the scope of its duties Turismo de Portugal, IP, is also charged with:

*a*) Taking part, pursuant to the law, in the preparation of territorial management instruments;

*b*) Issuing opinions on sub-division operations that involve setting up tourism enterprises, limited to their area, except when such operations are located in an area covered by a master plan in the preparation of which it was involved;

c) Fixing the maximum capacity of and grading the tourism enterprises referred to Article 4.1, indents *a)* to *d)*.

3 - The provisions of article 26, adapted as necessary, apply to the opinion referred to in indent *b)* of the preceding paragraph.

4 - For the purpose of setting up tourism enterprises, contracts that have as their object the preparation of a draft plan, its alteration or revision, as provided for in Article 6-A of the territorial management instruments legislation, can also be concluded with Turismo de Portugal, IP, and with other public bodies having interests to be weighed in the procedure concerning the future plan.

## Article 22

### **Competencies of the municipal authorities**

1 - Within the framework of setting up tourism enterprises, the municipal authorities are charged with exercising the powers assigned by the urbanisation and construction legislation, specifically as provided for in this decree-law.

2 - The municipal council is also charged with exercising the following powers specifically provided for in this decree-law:

- a)* Fixing the maximum capacity of and grading town and country house tourism accommodation;
- b)* Fixing the maximum capacity of and grading tourism enterprises in rural areas, with the exception of rural hotels;
- c)* Fixing the maximum capacity of and grading campsites and caravan sites;
- d)* Keeping records of local lodging available to the public.

## CHAPTER IV

### **Setting up tourism enterprises**

#### SECTION I

#### **General provisions**

## Article 23

### **Applicable rules**

1 - The procedure concerning setting up tourism enterprises is in keeping with the mechanisms stipulated in this decree-law and is subject to the urbanisation and construction legislation, with the specifics set out in this legislation in the event that it involves the urbanisation operations provided for therein.

2 - The application for a permit and the prior communication of urbanisation operations relating to setting up tourism enterprises shall be drawn up in accordance with the legislation referred to in the preceding paragraph, and also with the stipulations of the joint order-in-council of the Government members responsible for the tourism and spatial planning areas, the interested party to state in the application the type of undertaking as well as the intended name and grading.

3 - The municipal council may contract Turismo de Portugal, IP, to monitor the procedure involving the setting up of the tourism enterprises referred to in Article 4.1 indents *a)* to *d)* and Article 18.3(c), for the purpose of streamlining the procedure, and in particular to organise conciliation meetings between the entities consulted or between the latter, the municipal council and the applicant.

4 - The architectural plans relating to tourism enterprises shall be signed by an architect or by an architect in collaboration with a civil engineer, Article 10 of the urbanisation and construction legislation to apply, *mutatis mutandis*.

5 - In those cases where the environmental assessment of a territorial management instrument and the environmental impact assessment of tourism enterprises projects included in a detailed manner in the said instrument take place at the same time, a single public hearing may be undertaken, without prejudice to the exercise of the specific competencies of the entities involved.

6 - For projects involving tourism enterprises that are subjected to environmental impact assessment procedures and are located wholly or partly in areas included in the National Ecological Reserve, the opinion of the respective co-ordination and regional development committee within the scope of that assessment shall also include its opinion as called for in Article 4.2(a) of the National Ecological Reserve legislation.

7 - When projects relating to tourism enterprises are subjected to the environmental impact assessment procedure and are located wholly or partly in areas included in the National Ecological Reserve, the opinion

of the respective co-ordination and regional development committee authority, pursuant to Article 4.2(a) of the National Ecological Reserve, takes into account the results of that procedure.

#### Article 24

### **Shops and food and beverage establishments**

1 - The provisions of this decree-law regarding setting up tourism enterprises apply to shops, restaurants and bars that form an integral part thereof.

2 - The preceding paragraph does not waive compliance with specific requirements relating to facilities and their working provided for in other applicable legislation.

3 - Without prejudice to the provisions of the preceding paragraph, the issue of a use permit for tourism purposes or communication of the opening of a tourism enterprise replaces the permit for the operation of all its constituent parts, including food and beverage establishments.

#### SECTION II

### **Prior information**

#### Article 25

### **Request for prior information**

1 - Any interested party may apply to the municipal council for prior information on the possibility of setting up a tourism enterprise and on the town-planning conditioning factors.

2 - The request for prior information concerning the possibility of setting up a resort covers all enterprises, establishments and equipment forming part thereof.

#### SECTION III

### **Licensing or prior communication of urbanisation operations**

#### Article 26

### **Opinion of Turismo de Portugal, IP**

1 - Approval by the municipal council of the permit application and its acceptance of the prior communication or approval of prior information regarding urbanisation operations in respect of tourism enterprises provided for in Articles 4.1, indents *a)* to *d)*, and in Article 18.3 of this decree-law require the opinion of Turismo de Portugal, IP, at all times.

2 - The opinion referred to in the preceding paragraph is intended to ensure compliance with the rules established in this decree-law and respective regulations, including the suitability of the planned tourism enterprise in the light of its intended use and type, and requires an appraisal of the architectural plans of the tourism enterprise.

3 - When unfavourable, the opinion of Turismo de Portugal, IP, is binding and must detail and justify the alterations to be made to the architectural plans.

4 - The provisions of Article 13 of the of urbanisation and construction legislation apply to the opinion referred to in paragraph 1.

5 - Together with the opinion, the maximum capacity of the undertaking and its grading in accordance with the project that was submitted are fixed.

#### Article 27

### **Permit or admission of prior communication**

In the case of campsites and caravan sites, of town and country house tourism accommodation and of tourism enterprises in rural areas, with the exception of rural hotels, the municipal council, together with the issue of the permit or the admission of the prior communication in respect of building work, fixes the maximum capacity and assigns the grading in accordance with the plans submitted.

#### Article 28

### **Setting up resorts**

Without prejudice to Article 25.2, the entity promoting the undertaking may opt between submitting to the licensing or to the prior communication process the urbanisation operations in respect of setting up the whole of the components of a resort or, alternatively, submitting these operations to the licensing or prior communication process separately in respect of each component or separate setting-up phase.

#### SECTION IV

##### **Works exempt from permits and not subject to prior communication**

###### Article 29

###### **Process**

Works carried out at the tourism enterprises listed in Article 4.1, indents a) to d), and in Article 18.3(c) of the urbanisation and construction legislation that are exempt from permits and are not subject to the prior communication mechanism, are declared to Turismo de Portugal, IP, using a form provided via its web site within 30 days of their conclusion, provided that:

- a) Their effect is the alteration of the grading or of the maximum capacity of the undertaking;
- b) Are likely to impair the minimum requirements for the grading of the undertaking, under the terms of this decree-law and respective regulations.

#### SECTION V

##### **Permit or communication of use for tourism purposes**

###### Article 30

###### **Authorisation for use for tourism purposes and issuance of permit**

1 - On conclusion of the works, the interested party applies for authorisation for use for tourism purposes in accordance with Articles 62 et seq. of the urbanisation and construction legislation, as per the specific requirements of this decree-law.

2 - The application for authorisation for use for tourism purposes must be accompanied by:

a) Declaration of responsibility signed by the author of the architectural plans and by the works inspection manager, attesting that the undertaking is in keeping with the approved plans and, where appropriate, that any alterations to the plans merely involve alterations exempt from permits under Article 6.1(b) of the urbanisation and of the construction legislation, appending the respective information memorandum;

b) Declaration of responsibility signed by the author of the fire-safety plans, stating that the job was carried out in accordance with the approved plans and, where appropriate, the alterations made comply with the laws and regulations regarding fire-hazard safety, or alternatively, proof of inspection by entities accredited in this field;

c) Declaration of responsibility signed by the authors of the plans relating to electrical installations, acoustics, energy and accessibility, or alternatively, proof of inspections conducted by entities accredited in these fields attesting that the existing installations comply with the regulations.

3 - The deadline for decision on granting authorisation for use for tourism purposes and issue of the respective permit is 20 days from the date of submission of the application, except where there has to be an inspection under Article 65 of the urbanisation and construction legislation.

4 - The permit authorising use for tourism purposes must contain the information listed in Article 77.5 of the urbanisation and construction legislation, and Turismo de Portugal, IP, is informed of it using the means stipulated in Article 74.

5 - The issue of the permit for use for tourism purposes is dependent only on prior payment by the applicant of the respective fee.

6 - A resort has a single permit authorising use for tourism purposes where it opted to submit to the licensing or to the prior communication process the urbanisation operations in respect of setting up the whole of the components of the resort.

7 - Other than in the case referred to in the previous paragraph, each tourism enterprise establishment and facility forming part of a resort must have its own permit authorising its use for tourism or for any other purpose for which they are intended.

8 - The granting of authorisation for use for tourism purposes and the issue of the respective permit for single-family villas provided for in Article 15.7 requires prior authorisation for use for tourism purposes granted to one of the tourism enterprises that will assure its management.

9 - Tourism enterprises may be authorised to be set up in stages, the provisions of this section to apply to each.

#### Article 31

##### **Communication of opening in the absence of authorisation for use for tourism purposes**

1 - If the authorisation for use for tourism purposes has not been granted or the respective permit issued by the deadline mentioned in Article 30.3 or the deadline stipulated in Article 65 of the urbanisation and construction legislation – where an inspection has been determined – the applicant may notify the municipal council of its decision to open to the public, so informing Turismo de Portugal, IP, delivering the following items:

*a)* Declarations of responsibility referred to Article 30, indents *a)* to *c)*, if they were not submitted with the application referred to therein;

*b)* Declaration of responsibility signed by the promoter of the building, ensuring the integrity and correct accessibility of the building or its condominium unit for the intended purposes and that it complies with applicable laws and regulations, taking into account its use and grading;

*c)* Inspection report approving the opening of the establishment drawn up by entities that performed the inspection provided for in Articles 64 and 65 of the urbanisation and construction legislation, if it took place;

*d)* In the event that the inspection imposed conditioning factors, a declaration of responsibility signed by the works technical manager, stating that they were taken into account.

2 - Within 30 days of receipt of the communication under the preceding paragraph, the mayor shall issue the authorisation for use for tourism purposes, notice of which shall be given to the applicant within eight days.

3 - Following the deadline mentioned in the preceding paragraph, the party interested in obtaining the permit for use for tourism purposes may obtain a court order for the performance of an act legally due, as provided for in Article 112 of the urbanisation and construction legislation.

4 - If serious or significant non-conformity of the undertaking in operation with the approved plans is encountered, the signatories of the declarations of responsibility referred to in paragraph 1, indents *a)*, *b)* and *d)*, shall answer jointly with the undertaking's management entity for damages caused by the non-conformity in question, without prejudice to other applicable penalties.

#### Article 32

##### **Certificate of opening**

Any of the following documents constitute a valid certificate of opening:

*a)* Permit authorising use of the undertaking for tourism purposes;

*b)* Proof of having made the communication referred to in paragraph 1 of the preceding article;

*c)* Application for a court order for the performance of an act legally due, pursuant to paragraph 3 of the preceding article.

#### Article 33

##### **Expiry of authorisation for use for tourism purposes**

1 - The authorisation for uses for tourism purposes expires:

*a)* If the undertaking does not come into operation within one year of the date of issuance of the permit authorising use for tourism purposes, or of the deadline for its issue;

*b)* If the undertaking remains closed for a period exceeding one year, except by reason of works;

*c)* When an undertaking is given a use other than that specified in its permit;

*d)* If for any reason, the undertaking cannot be classified or maintain the classification as a tourism enterprise.

2 - With the authorisation for use for tourism purposes lapse, its permit is revoked and seized by the municipal council at its own initiative, in the case of campsites and caravan sites, of town and country house tourism accommodation and of tourism enterprises in rural areas, with the exception of rural hotels, or at the request of Turismo de Portugal, IP, in other cases.

3 - The expiry of the authorisation determines the closure of the undertaking after notification of its management entity.

4 - Without prejudice to the preceding paragraphs, duly-founded measures may be adopted to safeguard urban legality in accordance with urbanisation and construction legislation.

## CHAPTER V

### Grading

#### Article 34

#### Concept and nature

Grading intended to assign, confirm or change the type and category of tourism enterprises and is mandatory.

#### Article 35

#### Categories

1 - The tourism enterprises listed in Article 4.1, indents *a)* to *c)* are graded as one- to five-star category, taking into account the quality of the service and of the facilities, in accordance with the requirements to be defined by the order-in-council provided for in Article 4.2(*a*).

2 - These requirements shall include:

- a)* Characteristics of the facilities and equipment;
- b)* Reception and concierge service;
- c)* Cleaning and laundry services;
- d)* Food and beverage service;
- e)* Complementary services.

3 - The order-in-council to which paragraph 1 refers makes a distinction between minimum and optional requirements, the sum of which provides the score required to achieve a given category.

#### Article 36

#### Grading process

1 - In the case of tourism enterprises referred to in Article 4.1, indents *a)* to *d)* and in Article 18.3(*c*), Turismo de Portugal, IP, and in the case of campsites and caravan sites, town and country house tourism accommodation and tourism enterprises in rural areas, the mayor, shall order the audit for the grading of the resort within two months of the date of issuance of the permit authorising use for tourism purposes or of the opening of the undertaking, pursuant to Articles 31.1 and 32(*c*).

2 - The grading audit is performed directly by Turismo de Portugal, IP, or by the municipal council, as appropriate, or by an entity accredited for the purpose, under the terms defined by the member of Government responsible for tourism.

3 - Upon completion of the audit, Turismo de Portugal, IP, or the mayor, as appropriate, establishes the grading of the tourism enterprise and assigns the corresponding identification plaque.

4 - All tourism enterprises are required to display outside, next to the main entrance, the plaque identifying their grading, the form of which is approved by the order-in-council referred to in the preceding article.

5 - In the case of campsites, town and country house tourism accommodation and tourism enterprises in rural areas, with the exception of rural hotels, the grading may be confirmed together with the authorisation for use for tourism purposes if the inspection referred to in Article 64 of the urbanisation and construction legislation has been undertaken.

#### Article 37

#### Charge

1 - For the grading audits performed by Turismo de Portugal, IP, a fee is payable, to be fixed by a joint order-in-council of the Government members responsible for finance and tourism, destined to cover the inherent costs.

2 - Without prejudice to the preceding paragraph, for grading audits performed by the municipal councils a fee shall also be due, to be determined under regulations approved by the deliberative body of the respective municipality, pursuant to Act 53-E/2006 of December 29.

#### Article 38

### **Review of the grading**

1 - The grading of tourism enterprises shall be reviewed every four years.

2 - The review application must be submitted by the interested party to the proper body six months before the end of the above period.

3 - The grading may also be reviewed at any time, officially or at the request of the interested party, when there is a change of presuppositions that determined its assignment.

#### Article 39

### **Waiver of requirements**

1 - The requirements for the award of the grading may be waived by Turismo de Portugal, IP, or by the municipal council, as appropriate, when their strict observance is likely to affect the structural or architectural features of buildings that are classified at national, regional or local level or that have historical, architectural, artistic or cultural value.

2 - Exemption from requirements can also be granted to recognisably innovative projects that enhance tourism.

3 - In the case of resorts, some requirements for facilities and equipment may be waived where the resort involves one or more enterprises that have such facilities and equipment, provided they can serve or be used by users of all the resort's enterprises.

## CHAPTER VI

### **National Register of Tourism Enterprises**

#### Article 40

### **National Register of Tourism Enterprises**

1 - Turismo de Portugal, IP, provides, via its website the National Register of Tourism Enterprises (RNET), an up to date list of tourism enterprises that have a valid certificate of opening, listing the name, grading, capacity and location of the enterprise, its classification and location and periods of operation, well as the identity of the respective management entity.

2 - Any change to the details provided in the register must be communicated by the management entity to Turismo de Portugal, IP, within 10 days.

3 - Expiry of the authorisation for use for tourism purposes in accordance with Article 33 determines cancellation of the registration of the tourist enterprise in the RNET.

4 - The land registry services may access the data in the RNET concerning the grading of tourism enterprises.

## CHAPTER VII

### **Management and operation**

#### Article 41

### **Names**

1 - The names of tourism enterprises may not suggest a type, grading or characteristics they do not have.

2 - Simple or compound names using the word 'hotel' can only be used by tourism the enterprises referred to Article 4.1(a) and Article 18.3(c).

3 - Tourism enterprises that have the infrastructure and equipment required by Article 16 for resorts may, for commercial purposes, use the term 'resort' in conjunction with their name.

#### Article 42

### **Advertising**

1 - The advertising matter, commercial documentation and merchandising of tourism enterprises shall state their name and grading and cannot suggest a grading or characteristics that the enterprise does not have.

2 - The adverts and signs located within the enterprises may include only their name.

#### Article 43

##### **Offer of tourist accommodation**

1 - With the exception of local lodging, only the tourism enterprises stipulated in this decree-law may provide tourist accommodation services.

2 - It is assumed there is provision of tourist accommodation services when a building or part thereof is furnished and equipped and, besides lodging, cleaning and reception services are provided, during periods of less than 30 days.

#### Article 44

##### **Management of tourism enterprises**

1 - Each tourism enterprise shall be managed by a single entity responsible for its full operation and service quality, and also for compliance with applicable laws and regulations.

2 - The management entity is appointed by the holder of the permit authorising its use for tourism purposes.

3 - At resorts, tourism enterprises that form part thereof may be managed by different entities, which answer directly for compliance with the laws and regulations.

4 - At resorts, the operation of the facilities and equipment and the common-use services mandatory under the grading assigned and the deed of incorporation are the responsibility of the resort's management entity.

5 - If the tourism enterprise includes commercial premises and food or beverage establishments authorised separately, their management entities answer directly for compliance with laws and regulations.

#### Article 45

##### **Management of accommodation units for tourism**

1 - Without prejudice to Article 49, the accommodation units are at all times under management for tourism purposes and the management entity must provide ongoing management of all the units, even though occupied by their owners.

2 - The management entity shall ensure that the accommodation units are kept furnished and equipped at all times, fully able to be rented to tourists as accommodation and that the mandatory services provided therein are of the category assigned to the tourism enterprise.

3 - Where the property is owned and operated for tourism purposes by different entities or where the project is a multi-ownership one, the management entity must obtain from all owners a legal document entitling it to manage all the accommodation units.

4 - The document referred to in the preceding paragraph shall stipulate the terms of the operation of the accommodation units for tourism, the owners' share of the results of the management of the accommodation unit and the conditions of its use by the respective owner.

5 - When occupying the accommodation units, their owners enjoy the mandatory services in keeping with the category of the enterprise, which are covered by the service charge provided for in Article 56.

6 - The accommodation units detailed in paragraph. 3 cannot be managed directly by their owners, nor may they constitute the object of contracts that compromise their use for tourism purposes, notably leases or creation of rights of use and residence.

#### Article 46

##### **Duties of the management entity**

The duties of the management entity include:

a) Publicising the prices of all services offered in a manner clearly visible in the reception, available at all times to users;

b) Informing users about the conditions governing the provision of the services and the prices, prior to their being hired;

c) Keeping in good working order all the facilities, equipment and services of the enterprise, including the accommodation units, and carrying out the maintenance work or improvements required to maintain their grading;

*d)* Allowing the proper authorities access to the enterprise and to examine documents, books and records directly related to the tourism business;

*e)* Complying with legal, regulatory and contractual rules relating to the running and management of the tourism enterprise.

#### Article 47

### **Operational responsibility**

1 - At all tourism enterprises the management entity shall appoint a person to deal with their management and service level.

2 - Operational responsibility of five-, four- and three-star tourism enterprises shall be entrusted to an employee entitled to exercise the profession of hotel manager.

#### Article 48

### **Access to tourism enterprises**

1 - Access to tourism enterprises is open to all, except as stipulated in the following paragraphs.

2 - Those who disturb their normal operation may be refused access to or not be allowed to remain in the tourism enterprises.

3 - Provided they are properly publicised, the provisions of paragraph 1 do not prevent:

*a)* The possibility of allocating all or part of tourism enterprises to exclusive use by members or beneficiaries of the owners or of the management entity;

*b)* Temporary reservation of part or all of the tourism enterprise.

4 - The management entity of tourism enterprises may restrict access to and use of the services, equipment and facilities of the enterprise to users accommodated therein and to those accompanying them.

5 - The rules governing the working of and access to the enterprise shall be duly publicised by the management entity.

#### Article 49

### **Periods of operation**

1 - Without prejudice to legal or contractual provisions, particularly regarding the grant of tourism utility or public funding, tourism enterprises are free to establish their periods of operation.

2 - Multi-owner tourism enterprises may only close subject to the agreement of all owners.

3 - The period of operation of tourism enterprises shall be properly advertised and posted where visible to the public from outside the undertaking.

#### Article 50

### **Standardised signs**

In providing information of a general nature relating to tourism enterprises and to the services provided, standardised signage shall be used as detailed in the table to be approved by order-in-council of the member of Government responsible for tourism.

#### Article 51

### **Complaints book**

1 - Tourism enterprises shall have complaints book in accordance with the terms and conditions set forth in Decree-Law 156/2005 of September 15, as amended by Decree-Law 371/2007 of November 6.

2 - The top copy of the complaint sheet must be submitted to ASAE (the Food Safety and Economic Authority), the entity charged with supervising and drawing up the administrative-offence cases provided for in the decree-law referred to in the preceding paragraph.

3 - ASAE shall allow Turismo de Portugal, IP, to access complaints received by tourism enterprise, under terms to be established in a protocol between the two bodies.

CHAPTER VIII  
**Multi-ownership of tourism enterprises**

Article 52  
**Concept**

1 - Multi-owner tourism enterprises are deemed to be those that comprise plots or condominium units involving one or more buildings.

2 - The accommodation units of the tourism enterprises may be constituted as condominium units under the general law.

Article 53  
**Applicable rules**

The provisions of this decree-law and, subsidiarily of the horizontal-property legislation are applicable to relations between the owners of multi-owner tourism enterprises.

Article 54  
**Deed of incorporation**

1 - Multi-owner tourism enterprises are governed by a deed of incorporation drawn up and approved under the terms of this decree-law.

2 - The deed of incorporation referred to in the preceding paragraph cannot contain provisions incompatible with the sub-division permit or the horizontal-property deed in respect of the buildings that form the tourism enterprise.

3 - The deed of incorporation of a tourism enterprise located in a building or buildings set up on a single plot constitutes the horizontal-property deed of the enterprise, in the event that the horizontal property had not already been constituted, provided it is set out in a public deed, a private document authenticated by an entity entitled to do so under the law or another horizontal-property deed that covers all the condominium units of the building or buildings in which the tourism enterprise is located, regardless of the use to which they are assigned.

4 - The deed of incorporation is drafted by the holder of the permit or authorisation to undertake the urbanisation operation connected with setting up the enterprise, or by the holder of the use permit or authorisation, and requires approval by Turismo de Portugal, IP, a condition precedent for the signature of the public deed or authenticated private document referred to in the preceding paragraph, if any, the date of approval of the deed of incorporation by Turismo de Portugal, IP, to be expressly inscribed therein.

5 - Turismo de Portugal, IP, shall issue its opinion regarding the deed of incorporation within 30 days of its submission by the interested party, and its approval may be refused only if it infringes the provisions of this decree-law or other applicable legal or regulatory provisions.

6 - The deed of incorporation is registered with the land registry services prior to the conclusion of any contract or promissory contract for the transfer of the plots or condominium units.

7 - A simple copy of the duly approved and registered deed of incorporation, a simple copy of the document referred to in Article 45.3 and an indication of the amount of the service charge owed by the owner of the plots or condominium units during the first year under the terms of the deed of incorporation shall form part of the promissory-transfer contracts and of the conveyance deeds relating to the plots or condominium units that form part of the multi-owner tourism enterprise, under penalty of nullity of the contract.

8 - A person acquiring the right to a plot or condominium unit in a tourism enterprise on the basis of which the document referred to in Article 45.3 was granted to the management entity of the enterprise shall succeed to the rights and obligations of the transferor of the said right before the management entity.

Article 55  
**Information contained in the deed of incorporation**

1 - The deed of incorporation shall contain the following information:

a) The identity the management entity of the enterprise;

- b) Identification and physical and land registry description of the various condominium units or plots in a manner such that they are perfectly individualised;
- c) The relative value of each condominium unit or plot expressed as a percentage or permillage of the total value of the enterprise;
- d) The purpose of each condominium unit or plot;
- e) Identification and description of the facilities and equipment of the enterprise;
- f) Identification of the common-use services;
- g) Identification of the urban infrastructures that serve the enterprise, the system of ownership thereof, and reference to the urbanisation contract concluded with the municipal council, if applicable;
- h) The various stages of construction of the project, if applicable;
- i) The criterion for the setting and updating of the service charge owed by the owners and the percentage thereof that is to constitute the remuneration of the entity responsible for the management of the enterprise, as well as details of the services covered by this charge;
- j) The duties of the owners, notably those related with the time, place and manner of payment of the service charge;
- l) The duties of the entity responsible for the management of the enterprise, particularly with regard to the maintenance of the enterprise;
- m) The means of resolving conflicts of interests.

2 - The deed of incorporation of a resort shall include the identity of the resort's management entity, identification and description of the various tourism enterprises, of the single-family villas provided for in Article 15.7, and of the tourism-operation establishments or facilities and equipment forming part thereof, in a manner such that they are perfectly individualised, the relative value of each element constituting the resort expressed as a percentage or permillage of the total value of the enterprise, the intended purpose of each of the said tourism enterprises, establishments and facilities or equipment for tourism operations, as well as the information required under indents d) to l) of the preceding paragraph, adapted as necessary.

3 - The management regulations of the enterprise shall also form part of the deed of incorporation, governing, *inter alia*, the maintenance, enjoyment and working of the accommodation units, of the common-use facilities and equipment and of the common-use services.

#### Article 56 Service charge

1 - The owner of a plot or condominium unit of a multi-owner tourism enterprise shall pay the entity managing the enterprise a service charge fixed in accordance with the criterion stipulated in the deed of incorporation.

2 - The service charge is intended to meet the expenses of maintenance, upkeep and running of the enterprise, including the accommodation units, the facilities and common equipment and the common-use services of the enterprise, and to pay for the provision of permanent reception and security services and for the cleaning of the accommodation units and the common parts of the enterprise.

3 - Besides the items provided for in the preceding paragraph, the service charge is intended to pay the services of the auditor and of the management entity of the enterprise, and to meet other expenditure stipulated in the deed of incorporation.

4 - The common-use equipment and services of the enterprise are those required for the respective category.

5 - The percentage of the service charge intended to remunerate the managing entity of the enterprise may not exceed 20% of the total.

6 - At resorts, each of the tourism enterprises, establishments or facilities and equipment that make up the enterprise contribute to the common charges of the resort in the proportion of their respective value fixed in the deed of incorporation of the enterprise, in accordance with Article 55.2.

7 - Credits in respect of the service charge as well as the respective default interest enjoy a real-estate lien on the respective condominium unit, ranking after those detailed in Articles 746 and 748 of the Civil Code and others as provided for in special legislation.

8 - A percentage of not less than 4% of the service charge shall be assigned to setting up a reserve fund to be used solely for maintenance and repair of the common-use facilities and equipment and to meet other expenditure expenses specifically provided for in the deed of incorporation.

9 - Regardless of the criterion for setting the service charge established in the deed of incorporation, it can be altered by at the proposal of the auditor included in the auditor's opinion, whenever it is seen to be

excessive or insufficient in respect of the charges it is intended to cover, provided that the change is approved at a meeting convened for the purpose.

#### Article 57 **Duties of the owner**

1 - The owners of plots or condominium units in multi-owner tourism enterprises may not:

- a) Use them for purposes other than those stipulated in the deed of incorporation;
- b) Alter their volume or exterior architectural design;
- c) Perform any acts or carry out works, including painting, affecting the continuity or urban or landscape unity of the enterprise, or adversely affect the operation or use of the common-use facilities and equipment;
- d) Perform any acts or carry out works that affect the type or grading of the enterprise;
- e) Prevent repair or maintenance work in their accommodation unit by the management entity.

2 - Works carried out by the owners of plots or condominium units, even when carried out indoors, must be authorised by the management entity of the enterprise, under penalty of the latter being entitled to re-establish the *status quo* at the owner's expense.

3 - The enterprise's management entity shall have access to the accommodation units of the enterprise in order to undertake their management for tourism purposes, to provide the common-use and other services stipulated in the deed of incorporation, to perform the inspections required for maintenance purposes or to carry out maintenance work or replacements.

4 - Credits resulting from works carried out under the provisions of this decree-law or of the deed of incorporation by the enterprise's management entity, as well as the respective default interest, enjoy a real-estate lien on the respective plot or condominium unit, ranking after those referred to in Articles 746 and 748 of the Civil Code and those provided for in special legislation.

#### Article 58 **Management**

1 - The management of multi-owner tourism enterprises lies with the management entity, except when it is dismissed under Article 62.

2 - Management of resorts is the responsibility of a single management entity designated in the deed of incorporation of the resort.

3 - The management entity of the enterprise shall perform the duties with which the manager of the condominium is charged, under the terms of the horizontal-property legislation, and is responsible for the overall management of the enterprise, charged in particular with the operation and maintenance of the common-use facilities and equipment and of the common-use services stipulated in the deed of incorporation, as well as the maintenance and upkeep of the collective-use green spaces, the roadway infrastructure and other collective-use facilities and equipment of the enterprise, provided they are of a private nature.

#### Article 59 **Good management and maintenance performance bond**

1 - At multi-owner enterprises, the enterprise's management entity shall post bond for good management and maintenance in favour of the owners of the condominium units or plots, by means of a bank deposit, fidelity insurance or bank guarantee, issued by an insurer or financial entity of Union European, the bond in question to be deposited with Turismo de Portugal, IP.

2 - The amount of the bond corresponds to the annual total of the service charges owed by the owners of the condominium units or plots that comprise the enterprise and it may be altered by the member of Government responsible for tourism.

3 - The bond may only be executed by resolution adopted by the general meeting of owners.

4 - The bond shall be constituted prior to the conclusion of the contracts for the transfer of ownership of the plots or condominium units that make up the enterprise, under penalty of their nullity.

Article 60

**Submission of accounts**

1 - The management entity of the enterprise shall organise annually the accounts relating to the use of the service charges and submit them for scrutiny by an auditor.

2 - The management report and accounts referred to in the preceding paragraph shall be sent to each owner, together with the notice convening the annual general meeting, accompanied by the opinion of the auditor.

3 - The owners are entitled to consult the evidence supporting the accounts and the management report to be presented at the general meeting.

4 - The management entity shall also provide the owners, at the general meeting convened to approve the management report and accounts relating to the use of the service charges, with an analysis of the operating accounts, as well as their supporting evidence.

Article 61

**Management programme**

1 - The management entity of multi-owner tourism enterprises shall establish a management and maintenance programme for the enterprise each year.

2 - The programme shall be sent to each owner together with the notice of annual general meeting at which its approval for the following year is to be approved.

Article 62

**Dismissal of the management entity**

1 - If the enterprise's management entity fails to fulfil its obligations under the present decree-law, the general meeting of owners may dismiss it.

2 - The dismissal shall be effective only if a new management entity is appointed and provided that the latter post the bond provided for in Article 59 within 15 days.

Article 63

**General meeting of owners**

1 - The general meeting of owners includes all owners of the plots or condominium units that constitute the enterprise.

2 - The general meeting is charged with:

- a) Electing its chairman from among its members;
- b) Approving the management report and accounts relating to the use of the service charges;
- c) Approving the management and maintenance programme of the enterprise;
- d) Approving, at the proposal of the auditor, the service charge as provided for in Article 56.9;
- e) Executing the good-management performance bond;
- f) Dismissing the management entity of the enterprise, as provided for in Article 62;
- g) Adopting resolutions on such other matters as may be submitted to it by the management entity of the enterprise.

3 - The general meeting is convened by the entity responsible for the management of the enterprise.

4 - The general meeting shall be convened by registered letter, sent at least 30 calendar days before the date scheduled for the meeting, during the 1st quarter of each year.

5 - The general meeting may be convened by its chairman at the proposal of owners representing 10% of the votes corresponding to the total value of the enterprise.

6 - The rules on deliberative quorum provided for in the horizontal property legislation apply to the general meeting.

7 - Resolutions are adopted by simple majority of the votes of owners present or represented, except:

a) Where what is at stake is execution of the good-management performance bond or the dismissal of the management entity of the enterprise, in which case the resolution has to be adopted by the majority of votes corresponding to the total value of the enterprise;

b) In the other cases provided for in the horizontal property legislation.

Article 64

**Deeds of incorporation of existing enterprises**

1 - The provisions of this chapter do not apply to multi-owner tourism enterprises whose deed of incorporation has been approved as of the date of entry into force of this decree-law, and the provisions of Decree-Law 167/97, of July 4, as currently amended, and its regulations apply to them.

2 - The entities that manage multi-owner tourism enterprises in operation on the date of entry into force of this decree-law but do not have a deed of incorporation must draw one up and submit it for approval at a general meeting of owners by December 31, 2010.

3 - The owners' meeting is convened in accordance with the previous article and the notice must be accompanied by the documents to be approved.

4 - The general meeting may adopt resolutions provided that owners are present who represent a quarter of the total value of the project, the resolutions being adopted by majority of votes of the owners present.

5 - The deed of incorporation referred to in the preceding paragraphs must include the management regulations, be approved by Turismo de Portugal, IP, and be registered in the land registry in accordance with Article 54.

6 - The management entity must send to each owner a copy of the deed of incorporation duly approved by Turismo de Portugal, IP, and registered with the land registry.

7 - The rules of this chapter apply to amendments to the deeds of incorporation of existing enterprises.

CHAPTER IX

**Declaration of interest for tourism**

Article 65

**Declaration of interest for tourism**

1 - At the request of interested parties or of the municipal council, Turismo de Portugal, IP, may declare as being of interest for tourism, in accordance with the procedure to be laid down in the order-in-council of the member of the Government responsible for the tourism area, establishments, initiatives, projects or activities of an economic, cultural, environmental and entertainment nature that, for their location and characteristics, complement other tourism activities or enterprises, or constitute a tourist attraction in their respective areas.

2 - The declaration of interest for tourism may be officially withdrawn if the assumptions that led to its assignment no longer apply.

CHAPTER X

**Inspection and sanctions**

Article 66

**Inspection competence and drawing up indictments**

Without prejudice to the competencies of the municipal councils under the urbanisation and construction legislation, ASAE (Food Safety and Economic Authority) is charged with monitoring compliance with the provisions of this decree-law and filing indictments, except as regards the matter of advertising, in which the Directorate-General for the Consumer is competent.

Article 67

**Administrative offences**

1 - The following constitute administrative offences:

- a) The offer of tourist accommodation without valid permit;
- b) Failure by the local lodging establishment to meet the minimum requirements set out in Article 3.2 and failure to register as stipulated in Article 3.3;
- c) Failure to comply with general setting-up requirements specified in Article 5;
- d) Failure to comply with requirements of identification, secure access, soundproofing and communication with the exterior as provided for in Article 7, paragraphs 3, 4 and 5;
- e) Disregard for the maximum number of convertible beds that can be installed in accommodation units of tourism enterprises, as specified in Article 8.2;

- f) Disregard for the maximum capacity of tourism enterprises, in accordance with Article 8, paragraphs 1 and 4;
- g) Disregard for the maximum area specified for facilities of an ancillary nature to be used as accommodation, as specified in Article 19.4;
- h) Failure to submit the request for review of the grading of the resort in advance as called for in Article 38.2 and lack of submission of the application required to alter the grading as provided for Article 75.2;
- i) Failure to display the identification plate of the grading of the tourism enterprise outside, as provided for in Article 36.4;
- j) Violation of Article 41, in the matter of identification of tourism enterprises;
- l) Use of a grading or characteristics, which the enterprise does not have, in its advertising, commercial documents and merchandising, as provided for in Article 42.1;
- m) Disregard for the single-management rule stipulated in Article 44.1;
- n) Disregard for the requirement of being at all times under management for tourism purposes and of permanent operation of the accommodation units of the tourism enterprise, as provided in Article 45, paragraphs 1 and 2, and lack of a management contract concluded with the owners or lack of stipulation in the accommodation unit's management contract of the owner's share of the operating results of each accommodation unit and the conditions for their use by their owners, as provided for in Article 45, paragraphs 3 and 4;
- o) Management of the accommodation units by their owners or contracts that undermine their use for tourism, as provided for in Article 45.6;
- p) Infringement by the management entity of the duties referred to in Article 46, indents a) to d);
- q) Assignment of operational responsibility for five-, four- and three-star tourism enterprises to an employee not entitled to exercise the profession of hotel manager.
- r) Ban on free access to tourism enterprises in those cases not provided for in Article 48, paragraphs 2, 3 and 4;
- s) Lack of disclosure of rules governing the working of and access to tourism enterprises;
- t) Closure of a multi-owner tourism, enterprise, without the consent of all owners;
- u) Lack of publicity of the period of operation of the tourism enterprises;
- v) Failure to use standardised signs, in accordance with Article 50;
- x) Disregard by the owners of plots or condominium units in tourism enterprises of the provisions of Article 57, paragraphs 1 and 3;
- z) Failure by the management entity of the enterprise to post the good management and maintenance performance bond, in accordance with Article 59.1;
  - aa) Failure to fulfil the obligations submission of accounts provided for in Article 60;
  - bb) Failure to fulfil the obligations relating to the preparation and delivery to the owners of a programme for the management and maintenance of the multi-owner tourism enterprise for each year in accordance with Article 61;
  - cc) Lack of preparation and submission for approval by the general meeting of owners of the deed of incorporation of existing multi-owner tourism enterprises, in accordance with Article 64.2;
  - dd) Failure to send to each of the owners of a copy of the deed of incorporation for multi-owner tourism enterprises, in accordance with Article 64.6

2 - The administrative offences referred to in indents d), e), i), m), s), u), v) and dd) of paragraph 1 shall be punished with a fine of €100 to €500 in case of natural persons, and €1000 to €5000, in the case of corporate persons.

3 - The administrative offences referred to in indents f), g), h), j), l), q), r), t) and x) of paragraph 1 shall be punished with a fine of €500 to €2500 in case of natural persons, and €5000 to €25,000, in the case of corporate persons.

4 - The administrative offences referred to in indents a), b), c), n), o), p), z), aa), bb) and cc) of paragraph 1 shall be punished with a fine of €2500 to €3740.98 in case of natural persons, and €25,000 to €44,891.98, in the case of corporate persons.

#### Article 68 Accessory sanctions

1 - Depending on the severity and repetition of the offences provided for in the preceding article, as well on the culpability of the offender, the following accessory sanctions may be applied:

- a) Seizure of the material used to commit the offence;
- b) Suspension for up to two years of the exercise of the activity directly related to the offence committed;

c) Closure for a maximum period of two years of the enterprise or facility where tourist accommodation services are being provided without valid permit.

2 - When the accessory sanction of closure is applied, the permit, if any, is revoked and seized by the municipal council, officiously, or at the request of Turismo de Portugal, IP, or of ASAE.

#### Article 69

### **Limits of the fine in case of attempt and negligence**

Attempts and negligence are punishable, the minimum and maximum limits of the applicable fines being reduced to half.

#### Article 70

### **Sanctioning jurisdiction**

1 - Application of fines and accessory sanctions provided for in this decree-law is entrusted to:

a) The Application of Fines in Economic Matters and Advertising Committee (CACMEP) in respect of the tourism enterprises referred to in Article 4.1, indents a) to f);

b) The municipal councils in respect of the tourism enterprises referred to in Article 4.1, indent g) and to local lodging establishments.

2 - The application of the fines and accessory sanctions provided for in this decree-law for nature tourism enterprises is entrusted respectively to the CACMEP if the enterprises are of any of the types referred to in Article 4.1, indents a) to f), and to the municipal councils if the enterprises are of the type specified in Article 4.1, indent g).

#### Article 71

### **Proceeds of fines**

1 - The proceeds of fines levied by municipal councils constitute income of the respective municipalities.

2 - The proceeds of fines levied by CACMEP revert:

a) 60% to the State;

b) 30% to ASAE;

c) 10% to CACMEP.

#### Article 72

### **Embargo and demolition**

Without prejudice to the powers conferred by law to other entities, the mayor is charged with placing an embargo on and ordering the demolition of works carried out in violation of the provisions of this decree-law at its own initiative or upon notice given by Turismo de Portugal, IP, or ASAE.

#### Article 73

### **Prohibition of use**

ASAE is competent to determine the temporary suspension of the operation of tourism enterprises, in whole or in part, where lack of compliance with applicable legal provisions would adversely affect the safety of users or public health, without prejudice to the powers conferred by law to other entities.

#### Article 74

### **Information technology system**

1 - The conduct of proceedings under this decree-law is performed by computer using an information technology system linked to the system laid down in Article 8-A of the urbanisation and construction legislation, under the terms defined by order-in-council of the Government members responsible for the areas of local government and tourism.

2 - For the purposes of the preceding paragraph, Turismo de Portugal, IP, has access to all information relating to tourism enterprises contained in the information technology system provided for in the urbanisation and construction legislation.

3 - Until the information technology systems referred to in paragraph 1 come into operation, the procedures established in this decree-law may be carried out on paper.

## CHAPTER XI Final and transitional provisions

### Article 75

#### **Existing tourism enterprises, tourism enterprises in rural areas, nature houses and lodging establishments**

1 - This decree-law applies to tourism enterprises in existence on the date of its entry into force, without prejudice to the provisions of the following paragraphs.

2 - The types and categories of existing tourism enterprises, tourism enterprises in rural areas and nature houses shall be converted to fall into line with the types and categories set out in this decree-law and supplementary legislation issued under it by December 31, 2010.

3 - The conversion of the grading stipulated in the preceding paragraph is granted by Turismo de Portugal, IP, or by the municipal councils, as appropriate, following a grading audit, at the request of the interested party, and the requirements for the award of the grading may be waived in the event that they would determine the performance of works that prove to be materially impossible or compromise the profitability of the enterprise, recognised as such by the entity competent for the approval of the grading.

4 - If the enterprises referred to in paragraph 2 cannot maintain or obtain qualification as a tourism undertaking pursuant to this decree-law, they shall be converted into a type of local lodging.

5 - Tourism villas existing on the date of entry into force of this decree-law, licensed as such under the previous law, are automatically converted into local lodging villas, without prejudice to the following paragraph.

6 - If the tourism villas form an integral part of a resort, they may be converted to autonomous buildings forming part of the resort, provided the conditions set out in Article 15.7, indents *a)* to *c)*, are met.

7 - Lodging establishments licensed by municipal councils under the relevant regulations are automatically converted into local lodging establishments.

8 - Turismo de Portugal, IP, shall enrol in the RNET the tourism enterprises converted pursuant to paragraph 2.

9 - Valid certificates of opening of tourism enterprises, tourism enterprises in rural areas and nature houses existing at the date of entry into force of this decree-law shall remain valid, and shall be replaced by the permit authorising their use for tourism purposes only following enlargement, reconstruction or alteration works.

10 - In the case of tourism enterprises converted to local lodging establishments, the certificates of opening existing at the date of entry into force of this decree-law shall remain valid, and shall be replaced by the permit authorising use for residential purposes only following enlargement, reconstruction or alteration works, or at any other time at the request of the interested party.

11 - Multi-owner tourism enterprises existing at the date of entry into force of this decree-law shall maintain the system of tourism operation stipulated by the legislation in force at the time they were licensed, unless, by unanimous decision of all owners, they opt for the tourism management mechanism provided in this decree-law.

### Article 76

#### **Pending processes**

1 - Pending processes are governed by the provisions of this decree-law, except as provided in the following paragraph.

2 - The promoters or management entities of multi-ownership tourism enterprises whose processes are pending on the entry into force of this decree-law may choose to apply the rules contained in Chapters VII and VIII of this decree-law or the management mechanism applicable when the procedure commenced.

3 - For the purposes of paragraph 2 of this article, pending proceedings are deemed to be those relating to sub-division operations, requests for prior information and applications for licensing of urbanisation operations and applications for definitive grading, the object of which is to set up tourism enterprises, tourism enterprises in rural areas and nature houses.

Article 77  
**Revocations**

1 - Decree-Law 167/97, of July 4, as amended by Decree-Law 55/2002 of March 11, and by Decree-Law 217/2006 of October 31, as well as Decree-Law 54/2002 of March 11, are revoked.

2 - With the entry into force of the orders-in-council provided for in this decree-law, the following are revoked:

- a) Decree-Law 192/82, of May 19;
- b) Decree-Law 47/99 of February 16, as amended by Decree-Law 56/2002 of March 11, except for the provisions relating to the environmental animation set out in Articles 2.2 and 2.3, 8, 9 and 12;
- c) Regulatory Decree 33/97, of September 25, as amended by Regulatory Decree 14/2002 of March 12;
- d) Regulatory Decree 34/97, of September 25, as amended by Regulatory Decree 14/99 of August 14 and by Regulatory Decree 6/2000 of April 27;
- e) Regulatory Decree 36/97, of September 25, as amended by Regulatory Decree 16/99 of August 18;
- f) Regulatory Decree 22/98, of September 21, as amended by Regulatory Decree 1/2002 of March 3;
- g) Regulatory Decree 20/99, of September 13, as amended by Regulatory Decree 22/2002 of April 2;
- h) Decree-Law 2/99, of February 17;
- i) Regulatory Decree 13/2002, of March 12, as amended by Regulatory Decree 5/2007 of February 14;
- j) Decree-Law 1063/97, of October 21;
- i) Decree-Law 1068/97, of October 23;
- m) Decree-Law 1071/97, of October 23;
- n) Decree-Law 930/98, of October 24;
- o) Decree-Law 1229/2001, of October 25.

Article 78  
**Autonomous Regions**

The legislation enacted by this decree-law shall apply to the Azores and Madeira Autonomous Regions, without prejudice to adaptations arising from the structure of the autonomous regional administration itself.

Article 79  
**Entry into force**

This decree-law comes into force 30 days after the date of its publication.