

DECREE-LAW No. 7/2009

of January 15

**REGULATIONS FOR RESTAURANTS AND
SIMILAR ESTABLISHMENTS**

Considering the need to regulate the activities of restaurants, aiming essentially to defend consumer rights and the quality of food;

Heedful of hygiene-related and environmental concerns, in the latter aspect particularly focusing on resort and beach areas in general;

Taking into account the need to increase our country's credibility in terms of tourism potential, in compliance with the rules regulating such activities;

Aiming at establishing the parameters for classifying the various types of establishments into categories, as well as implementing the mandatory use of books for registering complaints;

It being indispensable to confirm the legitimacy of deeds evidencing the ownership, leasing, and possession of the land and buildings comprising tourist establishments, particularly those located in beach areas,

Therefore:

The Government decrees the following to be valid as law, pursuant to Article 115, No. 1, line e) and Article 116, line d) of the Constitution of the Republic:

Chapter I

GENERAL PROVISIONS

Article 1

Object and Scope

1. This regulation establishes procedures for the licensing and operation of restaurant-type establishments, including traditional food-and-beverage restaurants and the like.
2. The provisions of this statute and of the respective regulations are not applicable to the special-regime bars and nightclubs, which are regulated by their own statute.
3. The renewal of licenses for restaurant establishments already operating will be authorized after an inspection performed by the Inspection Committee, pursuant to the terms of this statute.

Article 2

Definitions

The following definitions apply to this statute:

- a) Bars and nightclubs – establishments whose main activity is providing a place to dance, with or without variety shows, that provide beverages, whether including dinner services or not, namely those designated by international practices as “nightclubs”, “boîtes”, discotheques, “dance clubs”, “cabarets” and “karaoke”.
- b) Traditional food-and-beverage establishments – are establishments that serve exclusively, or over 90% of whose bill of fare or menu consists of, traditional Timorese meals, at affordable prices.
- c) Similar establishments – establishments whose activities consist of offering main-course meals, encompassing what is designated by international practices as “coffee shops”, “self-service”, and reception facilities for weddings, events, and the like;
- d) Complaint Book – documentary backup, using a notebook or book, previously certified and with pages numbered by the National Tourism Directorate, intended for registering customer complaints or negative comments about restaurant establishments.

- e) Food courts – places that are intended exclusively for restaurants and traditional food-and-beverage establishments, whether or not they are a part of essentially business buildings, known internationally as “food centers”;
- f) Restaurants – establishments that have as their main objective to personally serve their customers meals or to offer takeout meals.
- g) Table – the Table of administrative fees, rates, and prices attached to this statute.

Article 3

Information for businessmen

Before commencing the licensing process for new restaurants and similar establishments, the staff of the Ministry of Tourism, Commerce and Industry, hereinafter referred to simply as MTCI, make available to interested parties the information that may be required, considering the complexity of the investment project in question, as follows:

- a) The legal requirements established for the activities to be carried out;
- b) The possibility of obtaining a temporary license, which allows the interested party to commence activities within a shorter timeframe, subject to the terms of Ministerial Statute No. 1/2008, of February 6, issued by the MTCI;
- c) The completion of the necessary documentation;
- d) The foreseeable procedural steps to be followed in the licensing process, taking into account all documents submitted and the location of the establishment;
- e) The mandatory sums to be paid as procedural costs and fees to cover general administrative expenses.

Article 4

Basic criteria for classifying establishments

1. The technical requirements regarding installations, for establishment-classification purposes, are set out in a ministerial statute issued by the MTCI.

2. In assigning categories, attention should be given to the characteristics and location of the establishments, as well as the quality of the installations and services.
3. For the purposes of the previous item, the following must be taken into account:
 - a) Hygiene and care when preparing food and beverages,
 - b) Proper presentation of prepared dishes;
 - c) Courtesy and efficiency when dealing with clients;
 - d) Perfect operation and cleanliness of all installations within the establishment;
 - e) The investment made in customer safety and comfort.
4. The establishment's furnishings, interior design, and equipment shall be in keeping with its classification and capacity, as well as the characteristics of the services rendered.
5. The investment made in protection and beautification of the surrounding environment is critical to the establishment's classification.
6. Traditional food-and-beverage establishments will have a classification different from that of restaurants and similar establishments.

Article 5

Ban on using different classifications

1. Establishments may not use a different classification from the one attributed to them, nor in any way mention their previous classification if it has since been altered.
2. The classification of restaurants located inside hotels is different and independent of the one the hotel holds.

Article 6

Common requirements of all restaurant establishments

1. The common requirements of all restaurant establishments are:
 - a) Customer areas separate from the service areas;
 - b) Restrooms for clients;
 - c) Service staircase or dumbwaiter, when the installations destined for clients are on a different floor from that on which final food and beverage preparation is done;
 - d) Kitchen and pantry, either separate or not, having adequate space and subdivisions;
 - e) Refrigerating installations;
 - f) Fire extinguishers or fire-fighting devices.

2. In traditional food-and-beverage establishments classified as 3 stars or less, it is not mandatory to have two different restrooms, separated by gender, nor restrooms for the staff.

3. If the similar establishment is located in a business building or food court, it is not required to have its own restrooms, provided the ones existing in the business building or the food court meet minimum requirements, is on the same floor as the establishment, and is intended for exclusive use of the establishment's clients and staff.

4. It is mandatory to have a Complaint Book, as well as making it available to clients and inspection authorities upon request, using a notebook or book, previously certified and with pages numbered by the National Tourism Directorate, intended for registering customer complaints or negative comments about restaurant establishments.

5. The maximum seating capacity of establishments is indicated on their licenses.

Article 7

Kitchens and restrooms

1. The walls, floors, and ceilings of kitchens and restrooms must be covered by waterproof or ceramic materials such as tiles, and be easy to clean.
2. The kitchen and restrooms must also comply with the conditions established in Attachment I of this statute, of which it is an integral part, and of the ministerial statute which will regulate classifications and categories.
3. The restrooms must have running water and direct or artificial ventilation, with ongoing air renewal.
4. The floors must have mechanisms or configurations that allow water to drain easily.
5. Without prejudice to areas intended for preparing barbecues, it is prohibited to use combustion devices fueled with firewood for heating water, as well as setting up such appliances inside restrooms.

Article 8

Specific obligations of establishment owners

1. Owners of all restaurant establishments must maintain the surrounding areas clean, within a distance of 5 meters from the area intended for food consumption.
2. The containers used for trash and other types of waste must be closed and be made of rain-resistant materials.
3. Lack of compliance with the obligations set out in this article is subject to an administrative penalty ranging from two hundred (200) to one thousand (1,000) U.S. dollars.

CHAPTER II
LICENSING PROCESS

Article 9

Commencement of the process

1. The licensing process commences when the interested party or its legal representative submits an application following the standardized model used by the MTCI, filled out completely and legibly, and attaching the items mentioned therein.

2. The application must be sent with the following items:
 - a) Applicant's identification, indicating name, address, profession, residential or company address;
 - b) Individual or corporate taxpayer I.D. number;
 - c) Location of the establishment;
 - d) Description of the activity carried out and the classification intended;
 - e) Deed of property, leasing or legitimate possession of the piece of land or space;

 - f) Deed of registration with the Board of Trade or respective application for registration of the business, in the latter case solely for provisional licensing purposes.

3. If the applicant is a legal representative, a document must be presented proving his/her legitimacy in commencing the process.

Article 10

Initial procedural steps

1. Once the minimum items mentioned above are presented, the National Directorate for Domestic Trade, hereinafter referred to simply as the NDDT, must submit a copy of the application and of the attached items to the following agencies within five business days:

- a) the Fire Department;
- b) the Ministry of the Economy and Development/ Secretariat for Environmental Affairs;
- c) the Ministry of Health/ Health Surveillance Authorities;
- d) the Ministry of Labor and Social Solidarity, when the number of employees at the establishment is greater than 10;
- e) the Administration of the respective District;
- f) the National Tourism Directorate (NTD).

2. If the applicant has proof of submitting any of the above statements to the aforementioned agencies, the NDDT is exempt from doing so;

3. If the agencies mentioned in Item 1 have any objections, they must so notify the NDDT within 5 business days from the date of receipt of the copy, with their silence being construed as approval.

4. In the event of any opposition as mentioned in the previous item, the NDDT shall notify the interested party within 5 business days from the date of receipt of the notification, so that the respective deficiencies can be corrected.

Article 11

Modifications to the application and decisions

1. Within up to 7 business days from the end of the timeframes mentioned in Items 3 or 4 of the previous Article, the NDDT notifies the interested party of the decision taken, explaining the reasons for eventual rejection of the application.

2. If the interested party moves to make alterations to the project after the respective approval, it must notify the NDDT concerning the terms and scope of such alterations.

3. In the event the NDDT considers the requested alterations relevant in terms of safety, public health, protection of the environment or of classified monuments, and that it is

necessary to obtain approval from authorized agencies, such facts must be reported immediately to those agencies.

Article 12

Term of validity of operating license

Licenses are valid for a period of one year from the date on which the respective license is issued and are renewable for the same period of time, upon request of the interested party, before the expiration date of the previous license.

Article 13

Establishments to be located in future buildings

When restaurant establishments or the like are to be installed in future buildings, the operating license depends on the prior licensing of the construction project by the Ministry of Infrastructure and its respective conclusion.

CHAPTER III

INSPECTION

Article 14

Inspection scheduling for obtaining operating license

1. The inspection may be performed on any day, from the date on which the licensing application is submitted until the decision mentioned in Article 11 is handed down, during normal business hours.
2. The NDDT must, whenever possible, provide for the participation of the agencies mentioned in Article 10 in inspection activities at establishments, so that the inspection is a joint effort.

Article 15

Purpose of the inspection

The inspection mentioned in the previous Article is intended for verifying:

- a) The compliance of equipment and installations with the specifications in the initial application and respective attached documents, after the construction work and other activities related to setup of the establishment are finished.
- b) Environmental and safety status.
- c) The possibility of granting a license, and the limitations and conditions to be imposed, where there may be reservations or obstacles to the granting of such license.

Article 16

Inspection Report

1. The observations and possible recommendations are registered in the inspection report, drawn up on the day of the inspection, except as described in the next item.
2. In more complex cases, the observations and recommendations may be included in the report within 3 business days .
3. All observations and recommendations are based on technical standards and the applicable laws.

Article 17

Additional inspections

1. If, after the inspection is performed, it is not possible to issue a document licensing the interested party to start operating, the NDDT notifies the interested party of the reasons, based on the inspection report, indicating the mandatory recommendations, as well as the timeframe established to ensure fulfillment of such recommendations.

2. It is the duty of the interested party, before the end of the timeframe established in the previous item, to advise the NDDT of compliance with such recommendations.
3. The performance of additional inspections due to factors attributable to the interested party shall result in the payment of an extra processing fee for each additional inspection, as described in the attached Table.
4. After receiving notice of compliance with the aforementioned recommendations, the NDDT issues a form for the payment of the additional fee mentioned in the previous item, notifying the interested party about it;
5. The NDDT performs the additional inspection within a period not to exceed 10 business days.

Article 18

Temporary licenses

1. If, after the inspection is performed, it is noted that it is still not possible to grant the requested license, but there are no circumstances that pose a danger to safety or public health or to environmental protection that prevent startup of operations, the inspection agent may suggest to his/her superior the granting of a temporary license to the interested party, in compliance with Ministerial Statute No. 1/2008 of February 6, issued by the MTCL.
2. The term of validity of the temporary license is established and must reflect the limitations or conditions deemed appropriate, the recommendations to be complied with, and the timeframe stipulated for such compliance.
3. The temporary license, while in effect, is transferable under the same circumstances stipulated for a regular license.

4. It is the duty of the interested party to notify the NDDT of compliance with the recommendations, within at least 15 business days of the expiration date of the temporary license.

Article 19

Suspension and withdrawal of applications

1. When there is a stoppage in the process for a reason attributable to the interested party for a period of over 30 days as of the deadline applicable under the circumstances, the NDDT will suspend the process, advising the interested party of the fact.

2. After suspension has been ruled, the interested party may request reopening of the process, provided that:

- a) The request for reopening of the process is submitted within 2 months from the date of the notice of suspension;
- b) The applicable fee for reopening the process is duly paid;
- c) There are no alterations to the initial application or, if there are, such alterations are minimal and do not involve the need for a new technical opinion.

3. Shelving and withdrawal do not entitle the interested party to any refunds on any fees paid, nor the sums paid for acts or formalities already performed by the NDDT on its behalf, except when such performance has occurred after receipt of notice of withdrawal.

CHAPTER IV

FINAL AND TEMPORARY PROVISIONS

Article 20

Administrative fees

1. The administrative fees are listed in the table that is attached to this statute and constitutes an integral part hereof and are intended to cover the costs of inspections and printed materials.

2. The establishments defined as “traditional food-and-beverage establishments” are exempt from the licensing fee.

Article 21

Establishments already operating irregularly

1. The owners of establishments already operating whose situations are irregular and were open to the public before this statute takes effect must, within 60 days from the effective date:

- a) Report the fact in writing to the NDDT and request the specified inspection provided for in this Article;
- b) Commence the necessary measures for obtaining a license or the renewal of an expired license, as applicable.

2. After receiving the application for a specific inspection, the NDDT must schedule a respective date for the inspection within the 15 subsequent business days, sending notification of the fact not less than 5 days in advance to the interested party and to the agencies mentioned in Article 10.

3. If after the specific inspection mentioned in the previous item it is noted that there are no circumstances that pose a danger to safety or public health or to environmental protection that prevent the particular food-and-beverage establishment from operating, the temporary license mentioned in Article 18 may be granted to the interested party.

4. The temporary license issued according to the terms of this Article is not renewable, except in exceptional cases where a fact not attributable to the interested party occurs and it is necessary to extend the term of the license.

5. The owners that maintain establishments open to the public without complying with the duties set out in this licensing process or after being ordered to close immediately after the specific inspection, are subject to a penalty set at between one thousand (1,000) and ten thousand (10,000) U.S. dollars, without prejudice to the criminal liability applicable to the case.

Article 22

Agency authorized to impose the penalties

1. The filing of supporting documents and the application of the penalties provided for herein are duties of the Food and Economic Inspection Office (FEIO), in accordance with the terms set out in its respective charter.
2. For the sake of convenience, the NDDT's inspection services may be performed by the FEIO.

Article 23

Pending processes

The procedural system established in this statute is not applicable to pending cases, except if the interested party requests its application.

Article 24

Inter-departmental collaboration

The NDDT, the FEIO and the agencies mentioned in article 10 must collaborate to:

- a) Promote specific mechanisms to guarantee training for workers participating in the inspection process;
- b) Draw up manuals to clarify and provide support to investors and the public in general regarding the licensing process, specifically as regards technical requirements and documents required for the procedural steps in the process and the inspections.

Article 25
Effective Date

This statute takes effect on the date of its publication in the Federal Official Gazette (Jornal da República).

Approved in Cabinet Meeting on October 15, 2008.

The Prime Minister,

Kay Rala Xanana Gusmão

The Minister of Tourism, Commerce and Industry,

Gil da Costa A. N. Alves

Promulgated on 29/Dec/2008

To be published.

The President of the Republic,

José Ramos Horta

ATTACHMENT I

Kitchens

1. Restaurants and other food establishments:

Gross covered area of the establishment	Minimum kitchen area	Minimum area kitchen + pantry + storeroom + other areas for food preparation and cooking
Up to 100m ²	6 m ²	30% of total gross (covered) area of the establishment, though never less than 9m ²
101-150 m ²	10 m ²	25% of total gross (covered) area of the establishment, though never less than 27m ²
151-250 m ²	10 m ²	23% of total gross (covered) area of the establishment, though never less than 36m ²
Over 250 m ²	14 m ²	21% of total gross (covered) area of the establishment, though never less than 54m ²

2. Kitchens must have running water and direct or artificial ventilation, with ongoing air renewal.

3. Walls, floors, and ceilings must be covered by waterproof, preferably ceramic, materials or tiles and be easy to clean.

4. Floors must have mechanisms or configurations that allow the water to drain easily.

ATTACHMENT II

Restrooms

Capacity (No. of seated customers)	Restrooms		
	Women	Men	Unisex
Less than 28	—	—	1 toilet
28 to 100	1 toilet + 1 wash basin	1 toilet + 1 wash basin + 1 urinal	—
101 to 200	2 toilets + 1 wash basin	1 toilet + 1 wash basin + 2 urinals	—
201 to 300	3 toilets + 2 wash basins	2 toilets + 2 wash basins + 3 urinals	—
Over 300	4 toilets + 2 wash basins	3 toilets + 2 wash basins + 4 urinals	—

1. Restrooms must have running water and direct or artificial ventilation, with ongoing air renewal.

2. Walls, floors and ceilings must be covered by waterproof, preferably ceramic, materials, tiles, and be easy to clean,.

3. Floors must have mechanisms or configurations that allow the water to drain easily.
4. Unisex restrooms must not connect directly to areas intended for the kitchen, food preparation, or serving of meals or beverages.
5. Unisex restrooms must also be provided with disposable towels or hand dyers.

ATTACHMENT III
Table of administrative fees

The administrative fees applicable to restaurants under this statute are the following:

- a) Processing fee, including initial inspection costs and issuance of operating licenses: seventy (70) U.S. dollars;
- b) Fee for reopening process to include alterations requested by the interested party: thirty (30) U.S. dollars;
- c) Additional charge for each additional inspection performed for reasons attributable to the interested party: thirty (30) U.S. dollars;
- d) License renewal, within the legal timeframe: fifty (50) U.S. dollars;
- e) Licenses renewal outside the legal timeframe: one hundred (100) U.S. dollars.

Pursuant to Article 20, establishments defined as traditional food-and-beverage establishments are exempt from the licensing fee.

The temporary licensing fees set out in Ministerial Statute No. 1/2008, of February 6, issued by the MTCI, are maintained and confirmed.