

**Decree Law no. 48/98/M**

**November 3**

**As amended by Administrative Regulation no. 42/2004**

**CHAPTER I**

**General Provisions**

**Article 1**

**(Object)**

This law regulates the activity of travel agencies and the exercise of the professions of tour guide and of transferist.

**Article 2**

**(Concept)**

A travel agency, henceforth agency, is a commercial company registered in the Macau Special Administrative Region which is licensed in accordance with this law to exercise activities reserved to it.

**Article 3**

**(Reserved activities)**

1. The activities reserved to agencies are the following:

- a) Procurement of travel documents, namely visas;
- b) Organization and sale of touristic trips;
- c) Sale of tickets and reservation of seats in any means of transportation, as well as related luggage delivery;
- d) Reservation of services in hotels and similar enterprises, as well as in any touristic enterprises;
- e) Intermediation in the sale of services of similar agencies, whether local or from outside the Macau Special Administrative Region;
- f) Reception, transfer and assistance to tourists.

2. Agencies cannot refuse to render the services mentioned in subparagraphs a),

- c) and d) of the previous paragraph.
3. The provision of touristic information is presumed to be conducted in the capacity of services intermediary, except when carried out by official entities acting within the scope of their functions, by transport enterprises or by organizers of conventions or exhibitions.

#### **Article 4**

##### **(Complementary services)**

The following are services complementary to reserved activities of agencies:

- a) Rental of vehicles, in accordance with the respective legislation;
- b) Reservation and sale of tickets for shows and other public events;
- c) Handling of insurance in authorized companies which underwrite risks arising from touristic activity;
- d) Diffusion of touristic promotion materials, as well as the sale of touristic itineraries and similar publications;
- e) (revoked)

#### **Article 5**

##### **(Forbidden activities)**

- 1. It is forbidden for agencies to exercise any other activities or to render any other services besides the exercise of reserved activities or the rendering of complementary services allowed to them in accordance with this law.
- 2. It is forbidden for agencies to request or receive funds, patrimonial advantages or any other benefits from tour guides for the rendering of services in the framework of this law.

#### **Article 6**

##### **(Exclusivity)**

- 1. Only agencies can exercise reserved activities against remuneration.
- 2. The exercise of reserved activities is presumed to be against remuneration whenever carried out regularly or publicized under any title or in any manner.

#### **Article 7**

### **(Activities exercised by other entities)**

The provisions of articles 3 and 6 do not prevent the exercise of the following activities:

- a) The direct sale by hotels and similar enterprises, and by transport companies, of their services to clients;
- b) The transport of clients by hotels and similar enterprises with vehicles owned by them;
- c) The sale of services of a transport enterprise by other transport enterprise with which it has combined services;
- d) The making of reservation in hotels or similar enterprises by transport enterprises for users of their services.

### **Article 8**

#### **(Prohibition to refuse to render service)**

(revoked)

### **Article 9**

#### **(Premises)**

1. Agencies must exercise their activity in autonomous premises, with independent access, and which are exclusively for such exercise.
2. The activity of agencies shall be exercised in an immovable intended for commerce, services, offices or independent professions.
3. The premises shall have:
  - a) A minimum gross area of 40 square meters;
  - b) An area for serving clients;
  - c) Equipment appropriate to the exercise of their activities.
4. For the development of their activities, agencies may have branches and desks.
5. The provisions of paragraphs 1, 2 and 3 are applicable to branches, with the exception of subparagraph a) of paragraph 3; the minimum gross area of branches shall be 20 square meters.

## **Article 9-A**

### **(Compulsory opening hours)**

1. Agencies and their branches shall be open from 10:00 to 13:00 and from 15:00 to 18:00, except on Saturdays, Sundays and holidays, or in duly justified cases.
2. It is permitted to open outside the opening hours stated in the previous paragraph.
3. The provision of paragraph 1 is not applicable to desks.

## **Article 9-B**

### **(Identification of vehicles)**

1. An identification tag shall be placed on vehicles used by agencies, in accordance with the model mentioned in annex IV to this law.
2. The tag shall include the designations of the agency, in a clearly visible manner.

## **Article 10**

### **(Designations)**

1. Only a company licensed to exercise the activity of travel agency may use such designation in its firm.
2. For the purpose of licensing, agencies may request to use a commercial fantasy name in addition to the firm mentioned in the previous paragraph, which shall remain common to the main enterprise, the branches and the desks.
3. The designations shall be compulsorily written in both official languages, without prejudice to the existence of a version in another language, namely in English.
4. There must be a certain degree of correspondence between the designations intended for use in the official languages.
5. For the purpose of licensing of the activity, only designations which cannot be confused with others of already existing agencies shall be approved, without prejudice to rights arising from industrial property.
6. An agency cannot use a designation other than that authorized, nor in any way

allude to the previous one, in case the latter has been changed.

7. An agency must use in its external activity, namely in advertising, all authorized designations and, as well, the number of license given.

### **Article 11**

#### **(Transfer of ownership and assignment of the operation)**

1. The transfer of ownership and the assignment of the operation of an enterprise depend upon the transferee or assignee company holding a travel agency license.
2. The conclusion of any of the transactions mentioned in the previous paragraph shall be communicated, within 90 days, to the Macau Government Tourist Office, henceforth DST, by presenting the supporting documents.

### **Article 12**

#### **(Diffusion and information)**

1. Agencies shall promote the tourism of Macau by participating in events organized or supported by DST, and by displaying and distributing promotional materials and other documents sent by DST.
2. An agency must be able to supply updated information regarding the Macau Special Administrative Region concerning:
  - a) Means of transportation and of lodging;
  - b) Formalities relating to the arrival, stay and departure of tourists;
  - c) Exchange rates;
  - d) Regular touristic trips, if previously announced;
  - e) General touristic information.
3. Agencies must keep an updated record, which shall be accessible at all times, of:
  - a) Routes of touristic circuits in Macau, and the respective lists of tourists;
  - b) Tour guides, transferists and tour guide trainees for each excursion;
  - c) Vehicles of collective transportation used in each excursion;

d) Name of the responsible technical director.

### **Article 12-A**

#### **(Internet)**

1. An agency's internet pages shall indicate in a clear and accurate manner the provision of subparagraph a) of paragraph 1 of article 41, and shall comply with the legislation on electronic commerce.
2. An agency shall communicate to DST, within thirty days, the creation of internet pages.

## **CHAPTER II**

### **Licensing Process**

#### **SECTION I**

##### **License**

#### **Article 13**

##### **(License)**

1. The exercise of the activity of agency depends upon a license to be granted by means of a dispatch of the Chief Executive.
2. The license is requested by means of an application presented to DST.

#### **Article 14**

##### **(Processing of request)**

1. A request for a license to exercise the activity of agency shall mention:
  - a) Identification of the applicant company;
  - b) Location of the agency;
  - c) Denomination of the agency;
  - d) Complete identification of the agency's technical director.
2. The application shall have the following documents attached:
  - a) Certificate issued by the Commercial and Movable Property Registry relating to the registration of the applicant company;

- b) Documents evidencing the fulfillment of the requirements relating to the agency's technical director;
  - c) Certificate issued by the Land Registry relating to the registration of the immovable to be used as premises of the agency, so as to show evidence in connection with the provision of paragraph 2 of article 9;
  - d) Floor plan of the premises mentioned in the previous subparagraph, at a scale of 1:100.
3. Besides the documents mentioned in the previous paragraph, DST may request from the applicants, or from any other public entities or services, any other documents or elements that it deems necessary for better processing of the request.
  4. The documents showing evidence of the bail and of the professional civil liability insurance mentioned in article 50 may be submitted after the approval of the request.

## **Article 15**

### **(Requirements)**

The issue of a license to exercise the activity of agency depends upon compliance by the applicant company with the following requirements:

- a) Incorporation by the applicant of a commercial company with registered office in Macau;
- b) Existence of a minimum registered company capital, fully paid, of an amount of \$ 1,500,000.00 (one million and five hundred thousand patacas);
- c) Company object aiming exclusively at the operation of the activity of travel agency;
- d) Existence of at least one technical director;
- e) Provision of the guarantees required in Chapter VI, without prejudice to paragraph 4 of the previous article;
- f) Existence of premises in accordance with article 9.

## **Article 16**

### **(Opening of branches and desks)**

1. The issue by DST of a license to open branches depends upon the

occurrence of all of the following requirements:

- a) Increase of the minimum registered company capital by at least \$ 300,000.00 (three hundred thousand patacas) per branch;
- b) Availability of appropriate premises in accordance with this law.
2. The opening of branches shall be preceded by an inspection to be conducted by DST.
3. It is permitted to open desks in the Macau International Airport, in maritime, road and rail terminals, and in border posts.
4. Besides the places mentioned in the previous paragraph, DST may authorize, in accordance with the circumstances, the opening of desks in other locations, namely in hotels.

### **Article 17**

#### **(Branches — processing of request)**

1. A request for opening a branch shall mention:
  - a) Identification of the applicant company;
  - b) Location of the branch.
2. The application shall have the following documents enclosed:
  - a) Certificate issued by the Commercial and Movable Property Registry relating to the registration of the applicant company;
  - b) Certificate issued by the Land Registry relating to the registration of the immovable to be used as premises of the branch, so as to show evidence in connection with the provision of paragraph 2 of article 9;
  - c) Floor plan of the premises mentioned in the previous subparagraph, at a scale of 1:100.

## **SECTION II**

### **License**

#### **Article 18**

##### **(Issue)**



1. Once the exercise of the activity has been authorized, DST shall issue a license.
2. The issue of the license shall be preceded by an inspection of the premises, to be conducted by DST.
3. The license is issued in accordance with the model included as annex III to this law.
4. A fee is due for the issue of the license, in accordance with the table included as annex I to this law.
5. The license number is permanent, and is set sequentially in accordance with the date of the license issue.

### **Article 19**

#### **(Validity)**

The license is valid for a period of one year, counted from the date of the first issue; the license is renewable.

### **Article 20**

#### **(Renewal)**

1. The renovation of the license shall be applied for up to 30 days before the end of its validity period.
2. A fee is due for the renovation of the license, in accordance with the table included as annex I to this law.
3. If requested after the period mentioned in paragraph 1, the renovation of the license is subject to a supplementary fee stated in the table mentioned in the previous paragraph.

### **Article 21**

#### **(Prior authorization and notice)**

1. After the issue of an agency's license, the following facts are subject to prior authorization by DST:
  - a) Changes to the agency's denomination;
  - b) Replacement of the technical director;

- c) Opening of branches or desks.
2. An agency shall communicate to DST, by submitting the supporting documents, within ninety days from their occurrence:
  - a) Any changes to any element which is part of the request for a license to exercise the activity of agency;
  - b) Relocation of the main enterprise, of the branches or of the desks.
3. A relocation of the main enterprise or of the branches requires an inspection of the new premises.

## **Article 22**

### **(Branches and desks)**

1. The number and location of the branches and desks must be specified in the license.
2. Branches and desks can only be the object of a transaction which transfers their ownership, or assigns the right to operate them, if such is done together with the respective main enterprise.

## **Article 23**

### **(Publication of license)**

1. DST shall arrange the publication of an extract of the license in the Official Bulletin; the respective expenses shall be borne by the interested party.
2. For the purpose of the previous paragraph, an amount of no less than \$ 1,000.00 (one thousand patacas) shall be handed together with the amount due for the issue of the license.
3. Once the expenses have been calculated, any remaining balance in favor of the interested party shall be returned to him.

## **Article 23-A**

### **(Display of license)**

1. A license issued in accordance with paragraph 3 of article 18 shall be displayed in a clearly visible place at the entrance of the main enterprise.
2. Branches and desks must have a certified copy of the license, which shall be available for consultation by the entities mentioned in paragraph 1 of article

69.

## **SECTION III**

### **Lapse of license**

#### **Article 24**

##### **(Lapse and cancellation of license)**

1. An agency's license lapses and is cancelled whenever any of the following events occur:
  - a) The activity is not initiated within 90 days from its date of issue, except in cases of *force majeure*;
  - b) Bankruptcy, settlement with creditors, or termination of payments;
  - c) Termination of its activity;
  - d) Lack of application for renewal of the license for 2 consecutive years;
  - e) If any of the requirements mentioned in article 15 ceases to exist.
2. For the purpose of the effect mentioned in the previous paragraph, the lapse of the license shall be expressly recognized by DST.
3. An authorization for the opening of branches or desks shall lapse if they do not initiate operations within 90 days from the date of receipt of the respective notification, except in cases of *force majeure*.

#### **Article 25**

##### **(Termination of payments)**

For the purpose of the previous article, it shall be deemed that termination of payments has occurred whenever the bail posted becomes insufficient for the payment of the debts recognized by the agency, and the agency neither pays the debts nor restores the bail in accordance with article 55.

#### **Article 26**

##### **(Termination of activity)**

1. For the purpose of article 24, the closure of the enterprise for a period of time longer than 90 days without the presentation of an appropriate justification to DST shall amount to a presumption that the agency has terminated its activity.

2. The presumption mentioned in the previous paragraph is applicable to branches and desks, with the necessary adaptations.

### **Article 27**

#### **(Effect of lapse of license)**

The lapse of the license and consequent cancellation shall cause the permanent closure of the agency, its branches and desks.

## **CHAPTER III**

### **Technical Director**

#### **Article 28**

##### **(Requirements)**

1. Only persons who comply with the following requirements can be admitted as technical directors of agencies:
  - a) Residence in Macau;
  - b) Written and spoken knowledge of two languages, one of which shall be an official language;
  - c) Academic qualification at the level of a professional training course in the field of tourism, and recognized experience in the field.
2. For the purpose of subparagraph c) of the previous paragraph, the following situations shall be considered:
  - a) Professional training course offered or recognized in the Macau Special Administrative Region by an higher education institution specialized in the field of tourism;
  - b) Professional experience of no less than three years in activities in the tourism industry.
3. For the purpose of subparagraph b) of the previous paragraph, the applicant's résumé shall be assessed by a committee composed at least by two representatives of the Institute for Tourism Studies, henceforth IFT, and one representative of DST, to be appointed by respective heads.
4. The committee shall express its opinion within 15 working days from the date of the application, after which it shall be deemed approved.

## **Article 29**

### **(Exclusivity)**

1. A person cannot hold simultaneously the position of technical director in more than one agency.
2. The presence of the technical director during the agency's opening hours is compulsory, except in duly justified cases.

## **Article 29-A**

### **(Substitution)**

1. In case of lack of a technical director due to *force majeure*, the agency shall propose within a maximum time limit of 15 days the hiring of a new technical director, in accordance with and for the purpose of subparagraph b) of paragraph 1 of article 21.
2. The failure to hire a technical director within 90 days from the date of the presentation of the last application, within the time limit specified in the previous paragraph, causes the suspension of the activity.
3. The suspension of the activity for more than 90 days causes the cancellation of the license.

## **Article 30**

### **(Evidence of qualifications)**

1. Before taking up their positions, interested parties shall hand to DST the documents evidencing their academic qualifications and professional experience, for assessment of the requirements mentioned in article 28.
2. Besides the documents mentioned in the previous paragraph, DST may request from interested parties, or from any public departments or entities, other elements deemed necessary for the purpose there mentioned.
3. The provisions of the previous paragraphs apply in case of substitution of the technical director.

## **CHAPTER IV**

### **Touristic trips**

## **Article 31**

### **(Concept)**

1. A touristic trip is any movement of persons within or to the outside of the Macau Special Administrative Region.
2. A touristic trip may be individual or collective.
3. Individual touristic trips are those agreed with a certain person or persons for the satisfaction of their interests or of programs defined or accepted by them.
4. Collective touristic trips are those organized by agencies for groups of persons, by means of adherence to plans and prices globally and previously set.

### **Article 32**

#### **(Excluded activities)**

Those touristic trips where the agency merely acts as an intermediary in the sale or reservation of sporadic services specifically requested by the client shall not be deemed to be touristic trips.

### **Article 33**

#### **(Insurance)**

Agencies organizing collective touristic trips are obliged to effect insurance covering the civil liability risks arising from such trips.

### **Article 34**

#### **(Escort in Macau collective touristic trips)**

It is compulsory to have escort by a tour guide in collective touristic trips, without prejudice to paragraph 1 of article 67-B.

### **Article 35**

#### **(Excluded trips)**

1. This law does not apply to collective trips within the Macau Special Administrative Region or to the outside, organized by:
  - a) Official entities acting within the scope of their functions;
  - b) Associations in which only the respective associates and their families take part, in accordance with their respective by-laws.

2. The exception mentioned in the previous paragraph depends upon the fulfillment of all of the following requirements:

- a) Non-profit object;
- b) Absence of commercial advertising, under any form or pretext.

## **CHAPTER V**

### **Relations with Clients**

#### **Article 36**

##### **(Liability)**

- 1. Agencies are liable towards their clients for the performance of the obligations arising from the sale of touristic trips, even if such obligations are to be executed by third parties, and without prejudice to the right of return, if applicable.
- 2. Agencies organizing touristic trips are jointly liable with the agencies selling such trips.

#### **Article 37**

##### **(Trip programs)**

- 1. Agencies organizing touristic trips shall have trip programs to be handed to persons requesting them.
- 2. Such programs shall accurately state the elements mentioned in subparagraphs c) to h) of paragraph 1 of article 41, and also:
  - a) The existence of optional excursions, the respective price and the minimum number of participants, if applicable;
  - b) The need for passport, visas and sanitary formalities for the requested trip and stay;
  - c) The special conditions of the trip.

#### **Article 38**

##### **(Binding effect of the trip program)**

Agencies are bound to perform the trip program, except if:

- a) The trip program foresees the possibility of amendment of the conditions, and such amendment has been communicated to the client, in clear terms, prior to the conclusion of the contract;
- b) There is an agreement of the parties to the contrary.

### **Article 39**

#### **(Obligation of prior information)**

Before the beginning of any trip, agencies shall provide to clients, with appropriate advance, in writing or in any other appropriate form, the following information:

- a) All clauses to be included in the contract;
- b) Timetables and places of stop and correspondence;
- c) How to make contact with the local representation of the agency or the entities which may assist the client should difficulties arise, or, in their absence, how to make contact with the agency itself;
- d) In cases of trips and stays of minors in foreign countries, how to directly contact those minors or the person locally responsible for their stay;
- e) The possibility to conclude an insurance contract covering the expenses arising from repatriation or assistance in case of accident or sickness;
- f) The need for travel documents, visas or any other formalities.

### **Article 40**

#### **(Accessory obligations)**

1. In the moment of sale of any service, agencies shall hand to clients a document mentioning the respective object and characteristics, the date of performance, the price and any payments already made.
2. When a trip exceeds 24 hours of duration or includes an overnight stay, agencies shall hand to the client a duly signed full copy of the contract.
3. Agencies shall provide to clients all elements necessary to obtain the service sold.

### **Article 41**

#### **(Contract contents)**



1. The sale of touristic trips requires the conclusion of a contract, which must mention the following:

a) Designations, address and license number of the agency selling and of the agency organizing the trip;

b) Insurance effected, if applicable;

c) Price of the trip organized, conditions and time limits in which its amendment is lawfully allowed, and any taxes or fees due for the trip which are not included in the price;

d) Amount or percentage of the price to be disbursed as initial payment, date of payment of the remaining amount, and consequences of the lack of payment;

e) Origin, itinerary and destination of the trip, periods and dates of stay;

f) Minimum number of participants required for holding the trip, and time limit for notification of cancellation to clients if such number is not reached;

g) Dates, times and places of departure and return, and categories and features of the means of transportation used;

h) Type, rating and location of the accommodation used, with specification of meals included, if any;

i) Visits, excursions or other services included in the price or paid optionally by the client;

j) Conditions arising from special requests communicated by the client to the agency and accepted by the latter;

l) Procedure for handling client complaints for non-performance of agreed services.

2. Without prejudice to paragraph 2 of the previous article, agencies shall hand to clients a document specifying clearly and unequivocally, even if in a simplified manner, the elements mentioned in the previous paragraph.

## **Article 42**

### **(Assistance to clients)**

1. Whenever a client is not able to complete a trip as result of causes which are not imputable to him, the agency has the obligation to provide assistance to him up to the point of departure or destination, and shall adopt all measures

necessary.

2. In case of complaints by clients, it is for the agency to produce evidence that it acted with diligence in order to find an adequate solution.

### **Article 43**

#### **(Assignment of contractual position)**

1. A client may assign his position by replacing himself with another person who meets all the conditions required for the trip, provided that notice of the assignment is given to the agency three days in advance.
2. The assignor and the assignee are jointly liable for the payment of the price and of the additional expenses arising from the assignment.

### **Article 44**

#### **(Impossibility to perform)**

1. If it becomes impossible to fully perform the contract for causes not imputable to the agency, the agency must immediately inform the client of the causes of non-performance.
2. If the impossibility relates to an essential obligation, the client shall have the right to rescind the contract, in which case he shall communicate such intention to the agency in the shortest possible period of time.

### **Article 45**

#### **(Change of price by agency)**

1. An agency can only change the price if all of the following requirements are met:
  - a) The contract expressly provides for such;
  - b) The change arises only from a variation in the cost of transportation or of fuel, of charges, taxes or fees payable, or from the fluctuation of exchange rates.
2. A change in the price which does not comply with the requirements mentioned in the previous paragraph grants to the client the right to rescind the contract in accordance with paragraph 2 of the previous article.

### **Article 46**

#### **(Legal effects of rescission of contract or cancellation of trip)**

1. If a client rescinds the contract in accordance with articles 44 or 45, or if the agency, as a result of facts not imputable to the client, cancels the touristic trip prior to the date of departure, the client, without prejudice to the civil liability of the agency, shall have the following rights:
  - a) To be refunded of all amounts paid; or
  - b) To choose to participate in another touristic trip, in which case the agency shall refund or the client shall pay any price difference.
2. There is no civil liability for the agency if the cancellation:
  - a) Is due to the fact that the number of participants in an organized trip is lower than the minimum number required, and the client has been informed of the cancellation in writing within the time limit foreseen;
  - b) Is not caused by overbooking;
  - c) Is caused by abnormal and unforeseeable circumstances, the results of which could not be avoided despite all measures adopted.

#### **Article 47**

##### **(Right of rescission by client)**

A client may rescind the contract at any time; however, he shall be liable for expenses already incurred by the agency, if justified, namely those arising from bookings effected that can no longer be cancelled.

#### **Article 48**

##### **(Non-performance)**

1. If, after departure, part of the services mentioned in the contract is not provided, the agency shall ensure, without price increases for the client, the provision of services equivalent to those agreed.
2. If the continuation of the trip becomes impossible, or if the conditions for continuation are not accepted by the client, the agency shall provide, without extra cost, an equivalent mean of transportation to enable the return to the departure point or to another agreed place.
3. In the cases mentioned in the previous paragraphs the client has the right to a refund of the difference between the price of the services agreed and that of those effectively provided, as well as the right to compensation in accordance with general rules.

## **Article 49**

### **(Liability for goods entrusted in custody)**

An agency is liable for the loss, damage or disappearance of objects, money or luggage entrusted by the client to its custody.

## **CHAPTER VI**

### **Guarantees**

#### **SECTION I**

### **General Provisions**

## **Article 50**

### **(Required guarantees)**

1. In order to guarantee their liability towards the clients arising from the exercise of reserved activities, agencies are obliged to post a bail and to effect civil liability insurance.
2. Without prejudice to the provisions of general laws, the following namely are included in the scope of the previous paragraph:
  - a) The refund of amounts paid by clients;
  - b) The refund of supplementary expenses incurred by clients as a consequence of the non-performance of the services agreed or of their defective or insufficient performance;
  - c) The compensation of patrimonial or personal damage caused to clients or to third parties by actions or omissions of the agency or of its representatives;
  - d) The repatriation of clients, and the provision of assistance to them, in accordance with article 42.

## **Article 51**

### **(Formalities)**

1. An agency cannot initiate or exercise its activity without producing evidence to DST that the guarantees required have been regularly contracted and are in force.
2. An agency must present annually to DST the documents evidencing that the

bail and the insurance are in force.

## **SECTION II**

### **Bail**

#### **Article 52**

##### **(Bail)**

1. The guarantee arising from bail covers all acts practiced during its period of application.
2. In case of closure of an agency, regardless of the cause, the bail shall remain in force during the year following the closure, and is liable for all claims presented during that time period, provided that such claims arise from obligations contracted before closure.
3. For the purposes of this law, a closure shall be notified within 15 days to DST by means of a registered letter, and shall be verified by DST by means of an inspection.

#### **Article 53**

##### **(Amount)**

An agency shall post a bail of \$ 500,000.00 (five hundred thousand patacas)

#### **Article 54**

##### **(Posting of bail)**

Bail is posted by bank guarantee or deposit to the order of DST.

#### **Article 55**

##### **(Restoration)**

1. The bail shall be kept in force for the amount set.
2. If the bail is executed, the amount of coverage required must be restored.
3. For the purpose of the previous paragraph, DST shall notify the agency to restore the bail within 10 days.
4. Non-compliance with the previous paragraph causes the immediate temporary closure of the agency until the situation is regularized.

## **Article 56**

### **(Functioning)**

1. Payments for the account of the bail are made directly by the guarantor entity.
2. For the purpose of the previous paragraph, the client shall submit his request to DST, together with the documents evidencing his credit.
3. DST shall send to the guarantor entity its justified opinion on the request submitted by the client.

## **Article 57**

### **(Communication to DST)**

Guarantor entities shall communicate to DST any payments effected under the bail, and any requests refused, indicating the grounds for refusal.

## **SECTION III**

### **Professional civil liability insurance**

## **Article 58**

### **(Insurance)**

1. Insurance shall cover:
  - a) Personal, patrimonial and non-patrimonial damage caused to clients or to third parties by actions or omissions by the agency's legal representatives and the persons at its service and for which the agency has civil responsibility;
  - b) Supplementary expenses paid for by clients as a consequence of the non-performance of services agreed or of their insufficient or defective performance.
2. Insurance does not cover:
  - a) Damage or harm caused to legal representatives of agencies and to persons at their service;
  - b) Damage caused by the client or by third parties or arising from the non-performance of legal rules in force relating to the services rendered by the agency or of instructions given by the agency.
3. Insurance may exclude damage or harm caused by accidents occurred with the means of transportation used in the services rendered by the agency,

provided that these do not belong exclusively to the agency and that the transporter keeps in force the insurance required by the legal rules applicable to the means of transportation used.

4. If an agency organizes or proposes to organize touristic trips to foreign countries, insurance shall cover all countries visited.

#### **Article 59**

##### **(Amount)**

The insurance cover shall be of no less than \$ 700, 000.00 (seven hundred thousand patacas).

#### **Article 60**

##### **(Validity)**

Insurance shall be kept in force and updated.

#### **Article 61**

##### **(Restoration)**

If the insurance is rescinded or lapses as a result of a cause imputable to the agency, paragraphs 3 and 4 of article 55 shall apply, with the necessary adaptations.

### **CHAPTER VII**

#### **Inspection**

##### **Article 62**

##### **(Competence)**

1. DST is empowered to:
  - a) Inspect compliance with this law;
  - b) Process complaints presented;
  - c) Instruct cases for breach of provisions of this law, and decide and apply the corresponding penalties.
2. If required to do so, administrative and police authorities shall provide assistance to DST officials in exercising their inspection function.

3. It is compulsory to provide any elements reasonably requested by duly identified officials on inspection duty.

### **Article 63**

#### **(Report of offences)**

All authorities and their officers shall communicate to DST any offences to this law.

## **CHAPTER VIII**

### **Tour Guide and Transferist**

#### **Article 64**

##### **(Concept and qualifications of guide)**

1. A tour guide is a professional which welcomes, informs and escorts tourists in Macau, against remuneration.
2. The exercise of the profession of tour guide depends upon:
  - a) Residence in Macau; and
  - b) Approval in a qualifying course offered by IFT; or
  - c) Approval in a diploma or bachelor degree course in the field of tourism, offered by IFT or by other Macau higher education institution, or obtained in a higher education institution outside Macau, if accepted by IFT;
  - d) Registration in DST and issuance of a tour guide card, in accordance with the model included as annex II to this law;
  - e) Contractual link with a travel agency.
3. Persons qualified under the terms and conditions mentioned in subparagraph c) of the previous paragraph can only exercise the profession and obtain the respective registration and tour guide card after attending a seminar and obtaining approval in an exam mentioned in paragraph 1 of article 67.

#### **Article 65**

##### **(Course to be offered by IFT)**

(revoked).



## **Article 66**

### **(Identification of guide)**

1. The tour guide card must be compulsorily used, and it shall be worn in a manner that enables the easy identification of its holder and of the agency with which he has a contractual link.
2. The identification of the agency shall be mentioned in a label affixed to the tour guide card, in accordance with the model included as annex II to this law.
3. (revoked).
4. (revoked).

## **Article 67**

### **(Tour guide card)**

1. The tour guide card, as well as its registration, shall lapse within three years if its holder, during that period, does not attend any of the seminars mentioned in article 67-E or, in case he attends them, if he fails to obtain approval in a final exam.
2. The renewal of the tour guide card is done every three years, upon application of the interested party, presented together with a certificate issued by IFT evidencing the attendance of the seminar and the approval in the final exam mentioned in the previous paragraph.
3. (revoked).

## **Article 67-A**

### **(Tour guide trainee)**

1. Students who attend or obtain approval in the courses mentioned in paragraph 2 of article 64 are tour guide trainees.
2. The escort of a touristic trip by a tour guide trainee shall be conducted in the dependence of a fully certified guide.
3. The identification card, as per the model included as annex II to this law, is of compulsory use, and it shall be worn in a manner that enables an easy identification of its holder and of the agency for which he works.
4. The card mentioned in the previous paragraph is issued by DST upon application of the agency.

## **Article 67-B**

### **(Concept and qualifications of transferist)**

1. A transferist is a professional hired by an agency who welcomes and escorts tourists between border posts and between these and the hotels, against remuneration.
2. The exercise of the profession of transferist depends upon the conclusion of general secondary school, the attendance of a seminar especially organized for this purpose by IFT, after having consulted DST, and the approval on the respective final exam.
3. A transferist qualified in accordance with the previous paragraph is only authorized to exercise the profession after registration with DST and the issuance of a transferist card, in accordance with the model included as annex II to this law.

## **Article 67-C**

### **(Identification of transferist)**

It is compulsory to wear the card, and it shall be worn so as to enable the easy identification of its holder and of the agency that hired him.

## **Article 67-D**

### **(Transferist card)**

1. The issue or renewal of the card depends upon an application of the contracting agency, which shall be accompanied by a certificate issued by IFT evidencing attendance of the seminar and approval in the exam mentioned in paragraph 2 of article 67-B.
2. The renewal of the card is done every three years, in accordance with the previous paragraph.
3. The transferist card lapses in case of rescission or lapse of the contract with the agency.
4. The agency shall communicate to DST the facts mentioned in the previous paragraph, within no more than 15 days from their occurrence.

## **Article 67-E**

### **(Knowledge update)**

1. IFT shall annually organize knowledge update seminars for tour guides and transferists on matters in the fields of tourism, culture and economy.
2. The subject of the seminars and the specific topics of the respective exams shall be submitted to DST for prior approval.
3. The opening of a seminar shall be preceded by the publication of a notice in at least two of the local dailies of larger circulation, one in Chinese language and the other in Portuguese language.

### **Article 68**

#### **(Professional codes of conduct)**

1. In providing information to tourists, tour guides and transferists must strictly obey by the truth.
2. In exercising their functions, tour guides and transferists must not:
  - a) Induce tourists to effect purchases in certain and determined enterprises;
  - b) Request or receive money, patrimonial advantages or any other benefit from another guide for the provision of services in the framework of this law;
  - c) Participate in any kind of game of fortune;
  - d) Promote and market goods.

### **Article 69**

#### **(Inspection)**

1. DST, police authorities and their officers have competence to inspect compliance with the provisions of this law.
2. Offences detected by police authorities and their officers shall be mentioned in an offence report which shall be sent to DST.

### **Article 69-A**

#### **(Offence report)**

1. The offence report shall state the identification of the agency, the guide or the transferist, depending on the case, the place, day and time of the occurrence of the offence, the circumstances in which it has been committed, a specified account of the offence with reference to the legal provisions violated, and any other elements deemed useful.

2. The offence report shall also be signed by a representative of the agency, by the guide or by the transferist, as alleged offenders, depending on the case, therein mentioning expressly, if that is the case, any refusal to sign.
3. A single report may mention all offences committed in a single occasion or related to one another, even if the offenders are different.
4. Once a report has been received, a case officer shall be appointed.

## **CHAPTER IX**

### **Rules on Offences**

#### **SECTION I**

#### **Offences in General**

##### **Article 70**

##### **(Enumeration)**

Breaches of this law shall be punished with the following penalties:

- a) Warning;
- b) Fine;
- c) Temporary closure of the enterprise;
- d) Permanent closure of the enterprise and cancellation of the license;
- e) Cancellation of the tour guide card;
- f) Cancellation of the transferist card.

##### **Article 71**

##### **(Repeat offences)**

1. For the purpose of this law, there is a repeat offense whenever another offense of the same type is committed within 1 year from a final conviction.
2. In case of repeat offences, the amount of the fine shall be the double of that previously applied or, if other penalty was applied, the next more serious penalty shall be applied.

##### **Article 72**

### **(Succession)**

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

### **Article 73**

#### **(Payment of fine)**

1. If a fine is applied, the offender shall voluntarily effect payment within ten days from the date of notification of the dispatch that applied the penalty.
2. In the absence of voluntary payment of the fine, forced execution shall be resorted to in accordance with the procedure for the execution of tax debts, through the competent authority; a certificate of the dispatch that applied the penalty shall serve as executive title.

### **Article 74**

#### **(Accumulation of liability)**

The application of any of the penalties mentioned in article 70 is separate from civil or criminal liability as may occur in the case.

### **Article 75**

#### **(Limits and criteria)**

The penalties shall be set within the limits mentioned in this law, taking into account:

- a) The nature and circumstances of the offence;
- b) The harm caused to clients, to third parties and to the image of the tourism of the Macau Special Administrative Region;
- c) The repeat offender status of the agency.

### **Article 76**

#### **(Publicity)**

Whenever the seriousness or the circumstances of an offense in a particular case so warrant, the penalty applied may be publicized through the media.

### **Article 77**

**(Appeal)**

(revoked).

**SECTION II**

**Offenses**

**Article 78**

**(Illegal exercise of activity)**

1. The exercise of the activity of agency without a license issued in accordance with this law shall be punished with the immediate closure and a fine of \$ 120,000.00 (one hundred and twenty thousand patacas).
2. For the purpose of the previous paragraph, DST may use police authorities to enforce the closure.

**Article 79**

**(Illegal opening of branch or desk)**

A breach of article 16 shall be punished with the permanent closure of the branch or desk and a fine of \$ 20,000.00 (twenty thousand patacas) for each offence.

**Article 80**

**(Transfer of branch or desk)**

A breach of paragraph 2 of article 22 shall be punished with the permanent closure of the branch or desk and a fine of \$ 10,000.00 (ten thousand patacas), for each offence.

**Article 81**

**(Lack of technical director)**

1. The operation of an agency without a technical director shall be punished with a fine of \$ 20,000.00 (twenty thousand patacas).
2. Without prejudice to the previous paragraph, the agency must engage a technical director in accordance with the provisions of this law.
3. Non-compliance with the previous paragraph causes the suspension of the agency's activity.

4. A suspension of the activity for more than 90 days causes the cancellation of the license.

## **Article 82**

### **(Irregular touristic trips)**

A breach of paragraph 2 of article 35 causes:

- a) A report, for disciplinary purposes, to the supervisor of the entity organizing the trip;
- b) The application to the association responsible for the trip of a fine of \$ 5,000.00 (five thousand patacas) to \$ 10,000.00 (ten thousand patacas).

## **Article 82-A**

### **(Unescorted collective touristic trips)**

A breach of article 34 shall be punished with a fine of \$ 40,000.00 (forty thousand patacas) to \$ 60,000.00 (sixty thousand patacas).

## **Article 83**

### **(Illegal exercise of professions of tour guide and transferist)**

1. A breach of paragraph 2 of article 64 and of paragraph 3 of article 67-B shall be punished with a fine of \$ 20,000.00 (twenty thousand patacas) to \$ 30,000.00 (thirty thousand patacas), applicable to the offender.
2. The agency shall be punished with the double of the fine applied to the offender.

## **Article 84**

### **(Noncompliance with time limit)**

(revoked).

## **Article 85**

### **(Unauthorized actions)**

1. A breach of paragraph 2 of article 68 shall be punished with a fine of \$ 20,000.00 (twenty thousand patacas) to \$ 30,000.00 (thirty thousand patacas), applicable to the offender.

2. Paragraph 2 of article 83 shall apply to this offense.

### **Article 86**

#### **(Nonrenewal of card)**

(revoked).

### **Article 87**

#### **(Wrong information)**

1. The provision by tour guides, transferists or agencies of information which grossly distorts factual realities shall be punished with a fine of \$ 5,000.00 (five thousand patacas) to \$ 10,000.00 (ten thousand patacas), applicable to the offender, provided that all of the following requirements are met:

a) Taking their functions into account, the knowledge of such facts can be legally required from them;

b) The correct clarification of such facts is inherent to the normal exercise of their functions; and

c) The provision of such information is likely to cause considerable damage to the client, or is made with the intention to obtain an illegitimate benefit, to himself or to a third party.

2. If the fact mentioned in the previous paragraph, although committed by the guide or transferist, is imputable to an act or omission of the agency, the latter shall be punished with a fine within the limits therein set.

### **Article 88**

#### **(Breach of duty to render assistance)**

A refusal to perform the duty to render assistance stated in article 42 shall be punished with a fine of \$ 5,000.00 (five thousand patacas) to \$ 10,000.00 (ten thousand patacas).

### **Article 88-A**

#### **(Various offences)**

1. A breach of paragraph 2 of article 5, of article 9, of article 9-B, of paragraph 1 of article 29, of article 29-A, and of article 33, shall be punished with a fine of \$ 10,000.00 (ten thousand patacas) to \$ 20,000.00 (twenty thousand patacas).



2. A breach of paragraph 2 of article 3, of paragraph 1 of article 5, of article 12, of paragraph 2 of article 29, of subparagraphs b) to e) of article 39, of paragraphs 1 and 2 of article 40, of article 41, of paragraphs 1 and 2 of article 48 and of paragraph 4 of article 67-D shall be punished with a fine of \$ 5,000.00 (five thousand patacas) to \$ 10 000,00 (ten thousand patacas).
3. A breach of paragraph 1 of article 9-A, of paragraphs 6 and 7 of article 10, of paragraph 2 of article 11, of article 12-A, of paragraphs 1 and 2 of article 21, of article 23-A, of article 37, of subparagraphs a) and f) of article 39, of paragraph 3 of article 40, of paragraph 1 of article 44, of paragraphs 1 and 2 of article 66, of paragraph 3 of article 67-A, of article 67-C, and of paragraph 1 of article 103, shall be punished with a fine of \$ 1,000.00 (one thousand patacas) to \$ 5,000.00 (five thousand patacas).
4. A breach of paragraph 3 of article 12 shall be punished with a fine of \$ 20,000.00 (twenty thousand patacas).

### **Article 89**

#### **(Repeat offences)**

1. The practice of repeated and serious offences by a travel agency causes the permanent closure of the agency, its branches and desks, without prejudice to the application of penalties arising from each offence.
2. The practice of repeated offences by a tour guide or transferist causes the cancellation of his card, without prejudice to the application of penalties regarding each offence.
3. The cancellation of the card causes, as well, the loss of the right to request the issue of a new card, for a period of one year.

## **CHAPTER X**

### **Procedure**

#### **Article 90**

##### **(Offence report)**

(revoked).

#### **Article 91**

##### **(Investigation)**

(revoked).

**Article 92**

**(Report)**

(revoked).

**Article 93**

**(Accusation)**

(revoked).

**Article 94**

**(Procedure)**

(revoked).

**CHAPTER XI**

**Final and temporary provisions**

**Article 95**

**(Designation)**

(revoked).

**Article 96**

**(Scope of application)**

(revoked).

**Article 97**

**(Update of guarantees)**

(revoked).

**Article 98**

**(Register)**

1. DST shall organize and keep updated a register of:

a) Agencies, branches and desks;

- b) Technical directors;
  - c) Tour guides;
  - d) Transferists;
  - e) Tour guide trainees.
2. The register may be consulted by interested parties, including agencies or other entities providing services in the field of tourism.

### **Article 99**

#### **(Lapse of authorizations)**

(revoked).

### **Article 100**

#### **(Fees)**

Fees are due for conducting inspections, in accordance with the table included as annex I to this law.

### **Article 101**

#### **(Destination of fees and expenses)**

The amounts arising from fees and expenses mentioned in this law, as well as from fines applied, shall be income of the Macau Tourism Fund.

### **Article 102**

#### **(Tour guides)**

(revoked).

### **Article 103**

#### **(Statistic information)**

1. Agencies are obliged to send quarterly to DST quantitative information on individual or collective trips performed with their intermediation within or to the outside of Macau during that period, indicating the nationalities of the travellers and the countries or territories of origin or destination.
2. The previous paragraph does not affect the information that must be provided by agencies to Statistics and Census Service for statistic purposes.

**Article 104**

**(Revocation)**

Decree Law no. 25/93/M, of May 31, and *Portaria* no. 163/93/M, of May 31, are revoked.

**Article 105**

**(Start of application)**

This law shall start to apply 30 days from the date of its publication.

Approved on 22 October 1998.

To be published.

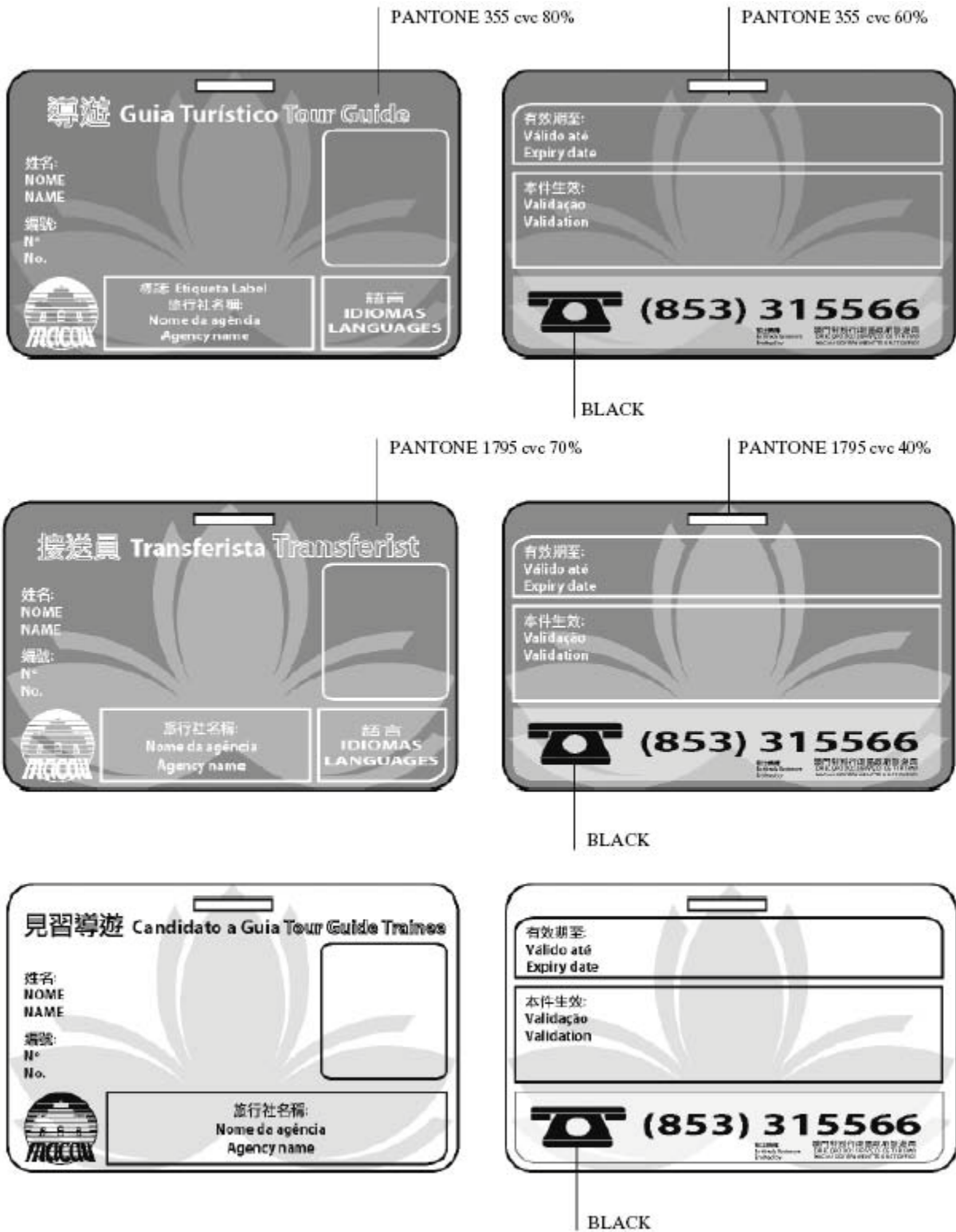
## ANNEX I

### Table of Expenses and Fees

1	Conduction of inspection	\$ 500.00
2	Issue of license	\$ 25,000.00
3	Renovation of license	\$ 5,000.00
4	Additional fee for late renewal of license	
4.1.	Up to thirty days	\$ 1,000.00
4.2.	More than thirty days	\$ 5,000.00
5.	First issue of identification card	\$ 100.00
6.	Second issue of identification card	\$ 200.00
7.	Other issuances	\$ 500.00
8.	Renewal of identification card	\$ 100.00
9.	Additional fee for late renewal of identification card	
9.1.	Up to thirty days	\$ 100.00
9.2.	More than thirty days	\$ 200.00

## ANNEX II

### Model of card for tour guide, tour guide trainee and transferist



### ANNEX III

Model of agency license



### ANNEX IV

Model of label mentioned in article 9-B

