



LEGAL NEWS

Cape Verde

July through October 2018

ENERGY

MICRO-PRODUCTION OF RENEWABLE ELECTRIC ENERGY

Decree-Law No. 54/2018, of 15 October 2018, amends Decree-Law No. 1/2011, of 3 January 2011, which regulates the independent production of electricity, based on renewable energy sources. The amendments introduced to the Decree-Law are mainly linked to micro-production, eligibility criteria for connecting micro-production systems to the grid, remuneration of micro-producers, and simplification of procedures, in particular by exempting from prior registration small installations with an installed power of less than 400 W.

BANKING AND FINANCIAL

COLLABORATIVE FUNDING LEGAL FRAMEWORK

Law No. 34/IX/2018, of 6 July 2018, defines the legal framework of the collaborative funding, which, according to the mentioned statute, corresponds to the funding of entities, its activities and projects, made through its register in web platforms, seeking investment from individual investors. This framework is applicable to collaborative funding offers directed at individuals domiciled or established in Cape Verde and to collaborative funding platforms with registered office or effective management in Cape Verde.

OBLIGATION OF INFORMATION RELATING TO FINANCIAL TRANSACTIONS

In accordance with the General Tax Code, credit institutions and the finance companies are subject to the obligation of communicating to the National Directorate of the State's Revenue the opening or maintenance of bank account by taxpayers whose tax situation is not regularized, as well as movements with origin or destination in entities subject to a privileged tax regime. Order No. 19/2018, of 13 July 2018, rectified in 30 July, approved MOD 13 declaration, by which that obligation to declare must be fulfilled.

LEGAL FRAMEWORK FOR REGIONAL DEVELOPMENT COMPANIES APPROVED

Decree No. 56/2018, of 24 October 2018, establishes the legal framework for the regional development companies. These companies are financial institutions which, in coordination with the State and the local authorities where they are situated, have as purpose the integrated development of their respective region, in accordance with their corresponding business plan. The regional development companies will be joint stock companies governed by the rules applicable to the financial system, and their share capital may be held by private investors, the State and Local Authorities.

INSURANCE

CREDIT INSTITUTIONS WITH ACCESS TO INSURANCE MEDIATION ACTIVITY

Decree-Law No. 48/2018, of 27 of August 2018, amended Decree-Law No. 25/2018, of 2 August 2018, which regulates the access and exercise conditions of the insurance mediation activity in Cabo Verde, in order to allow the insurance mediation activity to be performed by credit institutions.

FOREIGN EXCHANGE

INFORMATION DUTY OF OFFSHORE AND FOREIGN EXCHANGE TRANSACTIONS

The new legal framework for the economic and financial operations and foreign exchange operations, approved by Legislative Decree No. 3/2018, of 22 June 2018, have liberalized economic and financial relations with foreign countries. Consequently, Order No. 6/2018, of 27 August 2018, of the Bank of Cape Verde, has now regulated the duty to inform foreign operations and foreign exchange transactions. All entities resident in Cape Verde, or which carry out their activity in Cape Verde, that perform economic or financial operations abroad or that carry out foreign exchange operations, are subject to these information obligations.

LIST OF LIBERALIZED ECONOMIC AND FINANCIAL OPERATIONS WITH FOREIGN COUNTRIES

Decree Further the approval of the mentioned Legislative Decree No. 3/2018, of 22 June 2018, which have liberalized economic and financial relations with foreign countries, the Order No. 7/2018, of 27 of August 2018, of the Bank of Cape Verde, has now established the list of liberalized economic and financial operations with foreign countries.

CIVIL AVIATION

MAXIMUM TARIFFS IN THE PASSENGERS REGULAR DOMESTIC AIR TRANSPORTATION

On 17 September 2018 was published the Extract of Resolution No. 01/06/CA-2018 of the Board of Directors of the Civil Aviation Agency, which approves the new structure of the maximum tariffs by origin and destination to be applied to the regular domestic air transportation of passengers. This new structure of the maximum tariffs took into account the recent changes in the domestic air transport market, with the entry of the operator Binter Cabo Verde and the exit of TACV.

REAL ESTATE

AMENDMENT TO LEGAL FRAMEWORK OF SPECIAL TOURIST ZONES

Law No. 35/IX/2018, of 6 July 2018, approved the first amendment of Law No. 75/VII/2010, of 23 August 2010, which establishes the legal framework on declaration and operation of Special Tourist Zones (STZ), which is applicable to areas identified as having special interest for tourism purposes. The changes are mainly related to the declaration, classification, planning and management of STZ.

AMENDMENT TO THE LAND DEVELOPMENT AND URBAN PLANNING LAW

Decree-Law No. 4/2018, of 6 July 2018, amends the framework law for the Development and Urban Planning, approved by Legislative Decree No. 1/2006, of 13 February 2006. Among other amendments, it is noted the extension of the territorial scope of the Regional Real Estate Development Scheme and the elimination of the need for governmental ratification of detailed plans and preventive measures of urban plans when there are Municipal Master Plans in force.

MIGRATION

AMENDMENT TO THE FOREIGNERS LEGAL FRAMEWORK

In accordance with the changes to the legal framework applicable to the entry, stay, exit and expulsion of

foreign citizens of the Country, the respective regulations, approved by Decree-Law No. 2/2015, of 6 January 2015, have now been amended through Decree-Law No. 46/2018, of 13 August 2018. The following are the most relevant aspects: (a) the possibility of submitting visa applications through an internet platform; (b) the elimination of the collective tourist visa; and (c) the increase of components related to the Airport Security Tax, taking into account the services that will now be provided at the national air border posts. The types of visas that can be requested at the embassies or in the national territory continue to be those of transit, official and diplomatic, temporary, tourism and residence (the latter can only be requested in national territory). These amendments shall enter into force on 1 January 2019.

EXEMPTION OF VISAS AGREEMENT ENTERED INTO WITH MOZAMBIQUE

By means of Resolution No. 86/IX/2018, of 13 July 2018, it was approved, for ratification, the Visa Exemption for Ordinary Passports Agreement entered into between the Government of the Republic of Cape Verde and the Government of the Republic of Mozambique. Citizens of both countries are now exempted from the obligation of obtaining a visa when travelling on tourism, visit and business.

EXEMPTION OF VISAS AGREEMENT ENTERED INTO WITH ANGOLA

By means of Resolution No. 99/2018, of 24 September 2018, it was established, on a reciprocal basis, the exemption for national citizens of the Republic of Angola of tourism visas for stays of up to 30 days per entry and 90 days per year in Cape Verdean territory.

STATE

REGISTRATION OF MEDIA COMPANIES

Decree-Law No. 47/2018, of 13 August 2018, regulates the registration of media companies in general, including the registration of newspaper publishers, press agencies, advertising agencies, radio operators, television operators, distribution operators and periodicals regardless of their support.

NATIONAL PHARMACEUTICAL POLICY

Resolution No. 83/2018, of 16 August 2018, approves the National Pharmaceutical Policy 2018-2028. This policy defines the strategic measures of the sector, the selection and listing of essential medicines, the financing and system of price regulation, procurement and monitoring of the market of medicines. EMPROFAC remains the sole responsible for the wholesaler of medicines.

WATER AND SANITATION

PUBLIC SUPPLY OF WATER AND SANITATION OF URBAN WASTE WATER

In an attempt to face the lack of water resources that characterizes Cape Verde, Legislative Decree No. 5/2018, of 27 of August 2018, establishes the legal framework for public services of water supply and the sanitation of the urban waste water, thereby regulating the ownership of services, infrastructures and management of such services.

TAX

REGULATIONS ON TAX ARBITRATION FEES APPROVED

The Tax Arbitration Legal Framework introduced in the Cape Verde legal system in 2016, by means of Law No. 108/VIII/2016, of 28 January 2016, establishing arbitration as an alternative dispute resolution method for disputes on tax matters. In order to implement such regime, the Joint Order No. 32/2018, of 11 October 2018, approved the Regulations on Tax Arbitration Fees. These Regulations foresee two different tables of arbitration fees, depending on whether or not the parties choose to appoint an Arbitrator.

INTELLECTUAL PROPERTY

ACCESSION TO WIPO COPYRIGHTY AND PERFORMANCES AND PHONOGRAMS TREATIES

The International Treaties of the World Intellectual Property Organization (WIPO) on Copyright (WCT) and on Performances and Phonograms (WPPT) were approved, for accession, through Resolution No. 92/IX/2018, of 29 October 2018. The WIPO Treaty on Copyright, which is based on the main provisions of the Berne Convention, grants protection to computer programs and databases. The Treaty also recognizes the right of making available to the public works through interactive means, and establishes obligations concerning technological measures. The WIPO Performances and Phonograms Treaty provides for related rights in the digital environment to performers and producers of phonograms.

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