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PROJECTS – INFRASTRUCTURES, ENERGY & NATURAL RESOURCES

ANGOLA | NEW REGULATION ON THE LICENSING OF ESTABLISHMENTS AND OF COMMERCIAL ACTIVITY AND MARKET SERVICES

Presidential Decree no. 193/17, which approves the Regulation on the Licensing of Establishments and of Commercial Activity and Market Services (“**Regulation**”), was published on 22 August. The Regulation, which will enter into force on 21 October (60 days after its publication), establishes the conditions and procedures governing the licensing of commercial activities and market services, as well as the licensing of the respective establishments, revoking Presidential Decree no. 288/10, of 30 November (Regulation on the Licensing of Commercial Activity and the Provision of Market Services), as well as all prior regulations on the matter contrary to the provisions of the new Regulation.

Scope of Application

This Regulation governs the licensing of the following types of commercial activities: wholesale, retail sales, general trade, precarious commerce, street market trading, itinerant trading and the provision of market services (as defined in the Commercial Activities Law, approved by Law no. 1/07, of 14 May), as well as indirect representation commercial activities and any other commercial activity not regulated under special legislation. Activities authorised by special legislation, such as oil activities, are excluded from the scope of this Regulation.

Main changes introduced by the Regulation

- **Autonomisation of the licensing of commercial establishments and of the provision of market services**
 - According to the Regulation, any natural or legal person, whether national or foreign, that intends to carry out a commercial activity or provide market services in Angola must obtain (i) a Commercial Licence, (ii) a Precarious Commerce Licence, (iii) a Street Market Vendor Licence, (iv) an Itinerant Trader Licence, or (v) a Market Stall Licence, depending on the activity to be carried out;
 - In turn, the licensing of commercial, warehousing and market services provider establishments is independent from the licensing of commercial activity *per se*, seeing as the Regulation sets forth that the setting up and modification (if significant) of commercial establishments and of those used for the provision of market services is subject to the issuance of a commercial permit;

- **Centralisation of licensing competencies in one single entity**
 - Licensing competencies (whether related to commercial activities or establishments) are now centralised in a single entity, namely, the Ministerial Department responsible for Trade and Market Services, which can grant private entities powers to perform the necessary administrative licensing procedures through a public service concession contract;
- **Exclusion of import and export activities**
 - Import and export activities are no longer subject to commercial licensing and now only require registration with REI - *Registo de Importadores e Exportadores* (Importers and Exporters Registry).
- **Specific requirements for natural or legal persons are no longer foreseen**
 - Contrary to the previous legislation, the current Regulation does not foresee any special rules or procedures for foreign entities, which are now subject to the same requirements as national entities;
- **Reduction of licensing entity's response time**
 - The deadline for the issuance and notification of a decision on a (duly filed) request for a commercial licence is now reduced from 10 to 5 working days. If no answer is provided within this deadline, the request is considered tacitly approved;
- **Two categories of commercial permit**
 - The Regulation classifies the various types of commercial, warehousing and market services provider establishments (defined in accordance with the Regulation on the Organisation, Exercise and Functioning of Retail Trade, approved by Presidential Decree no. 263/10, of 25 November) taking into account their dimension, organisation and the activities provided;
 - The classification of these establishments determines the type of commercial permit they will be subject to: *Alvará de Comunicação Prévia* (Prior Notice Permit), where the inspection of the commercial, warehousing and market services provider establishments is performed only after the respective prior notification, within 60 days of the date of its acceptance, or *Alvará de Autorização* (Authorisation Permit), in cases where issuance or renewal of a permit is dependent on prior inspection;
 - The latter authorisation procedure is applicable to establishments providing market services such as the sale of foodstuffs, medication and cosmetics, cars or the commercialisation of fuels and lubricants (under Annex VII of the Regulation), as well as those specified in Article 27 of the Regulation – all other establishments merely being subject to prior notice and subsequent inspection;
 - The classification of commercial, warehousing and market services provider establishments is also decisive as regards the licensing of their respective owners (licensing of commercial activities and market services). The administrative procedure applied is similar in the case of owners of establishments subject to mere prior notice and subsequent inspection and those of establishments subject to the authorisation regime. In the latter case, if the authorisation request is accepted, the licensing process will advance with an inspection to the establishment in question, which should take place up to 10 days after the decision is served;

- **Special regime for the provision of market services**

- The licensing of market services may (i) not be subject to any licensing procedure, as in the case of financial services or services of general economic interest, notably, in the electricity, natural gas, telecommunications and transport sectors, (ii) be subject only to prior notice and subsequent inspection, as in the case of construction activities or food and beverage services, or (iii) be subject to authorisation and prior inspection, in the case of services related to the sale of foodstuffs, medication and cosmetics, cars or the commercialisation of fuels and lubricants;

- **Licensing proceedings through SILAC**

- Licensing requests and applications for commercial permits, duly accompanied by the documents required by law, are to be submitted to the Angolan Ministry of Trade through SILAC – *Sistema Integrado de Licenciamento da Actividade Comercial* (Integrated System for the Licensing of Commercial Activities).

FINAL NOTES

The main objective of this Regulation is to clarify the administrative procedures for the opening and closing of establishments and to simplify the legal framework governing the provision of market services in Angola. The legal framework now set forth represents a break from the previous framework, established by Decree-Law no. 288/10, of 30 November. One of the main new features is the autonomisation of the authorisation to carry out commercial activities or market services, represented by a licence, the model of which varies according to the activity to be performed and the licensing of the commercial establishment, represented by a commercial permit. The simplification of the opening procedures applicable to establishments subject only to prior notice and subsequent inspection is also worthy of note, as well as the fact that several market services are no longer subject to licensing, namely those deemed of significant importance to the national economy, developed in sectors such as electricity, gas, telecommunications and transportation.

The licensing process has also been simplified, no specific requirements now being foreseen for foreign natural or legal persons. A common framework has been introduced, which is characterised by a reduction in the licensing entity's response time and by faster and more effective licensing procedures.

The Regulation safeguards all licences issued under Presidential Decree no. 288/10, of 30 November, which will remain valid until their respective expiry date (5-year term), after which the issuance provisions foreseen in the Regulation should be observed.