

KSA's Tourism Law

Alain Sfeir and Atif Mulla of Clyde & Co elaborate on Saudi Arabia's recently-amended Tourism Law and on the new regulations that were introduced to boost tourism in the Kingdom.

The Kingdom of Saudi Arabia (KSA) has amended its Tourism Law, and updated and added to its regulatory regime to govern its burgeoning tourism sector in line with its Vision 2030 objectives to diversify the KSA economy. The recently issued Tourism Law (which was issued on August 23, 2022 pursuant to Saudi Arabia Cabinet Decision No. 79/1444, and which abrogated the previous Tourism Law promulgated by Royal Decree No. M2/1436) becomes effective on March 25, 2023, and is supplemented by ten wide-ranging Implementing Regulations that govern hotels as well as hotel management services (among others). In this article, we provide an overview of the legal and practical implications of the amended Law and updated Implementing Regulations, and their potential impact on hotel operators in the Kingdom.

HOW WILL THE NEW REGULATIONS IMPACT HOTEL OPERATORS IN KSA?

Local and international hotel operators who desire to be physically present in KSA to provide operational services must consider how their operations are structured in KSA. It has historically been common in the hospitality industry to take a more relaxed approach for international operators who enter into management arrangements with KSA-based hotel owners for the purpose of operating and managing hotels in KSA. This was largely due to the absence of an effective and well-structured regulatory framework. For example, it was and still is common for global hotel chain operators to provide management consulting services to KSA based hotels on an entirely offshore basis. We understand this may be acceptable to some extent if it is provided through an offshore consultancy that does not require the operator or manager (or any of their representatives and/or employees) to be physically present in the Kingdom for the purpose of operation and/or management

of the hotel. However, in circumstances where there is an ongoing physical presence requirement in respect of the hotel management arrangement, then such arrangements will have to be revisited to ensure compliance with the regulatory regime.

With the amendment to the Tourism Law and updates & additions to its Implementing Regulations, the foreign hotel operator that desires to operate in the Saudi market by being physically present (directly or indirectly through representatives), or alternatively by exercising control over the operations and management of an existing KSA hotel through another type of arrangement, is now required to establish a licensed legal entity in the Kingdom in order to undertake the business of managing or operating hotels in KSA. We understand there is no local KSA national partner or sponsor required for foreign hotel operators to undertake hotel management as a service in KSA. The most common form of entity for an operator or manager wishing to provide such services in KSA would be through the establishment of a limited liability company, subject to local KSA regulatory requirements. The establishment of a KSA company would require the foreign hotel operator or manager to firstly apply for and obtain a foreign investment license from the KSA Ministry of Investment (MISA) to practice the activity of operating and/or managing hotels (pursuant to the KSA National Classification for Economic Activities code 551011), and thereafter obtain a commercial registration certificate from the KSA Ministry of Commerce (MOC) to establish a company to undertake the activity. Different activity codes apply to other types of tourist accommodation facilities, including heritage, wellness, boutique and capsule hotels, as well as hotel villas and apartments. There are additional regulatory licenses and approvals required from various governmental agencies before the company is considered active and



operational for the purposes of KSA law. After the hotel operator or manager has established a KSA company and obtained the necessary licenses and approvals, it would need to apply for and obtain a license from the KSA Ministry of Tourism (MOT) in order to manage or operate accommodation facilities (i.e., hotels), which is defined as a “tourism activity” in the Tourism Law. This includes providing support services based on specialised technical experience

in accommodation facility management, as well as services and skills that are compatible with the type, category or class of the accommodation facility.

The license issued to the hotel operator or manager would be categorised in the following four classifications by the MOT, ranging from one to five stars for hotels:

1. Class A: for the management of all types of tourist accommodation facilities and private tourist accommodation facilities.

REGULATION	DATE
Tourism Accommodation Facilities Regulations	28/07/1442 AH (Corresponding to 12/03/2021G)
Travel and Tourism Services Regulations	01/06/1444 AH (Corresponding to 25/12/2022G)
Tourism Law Violations Committee Regulations	01/06/1444 AH (Corresponding to 25/12/2022G)
Tourism Guidance Regulations	01/06/1444 AH (Corresponding to 25/12/2022G)
Tourism Accommodation Facilities Management Regulations	01/06/1444 AH (Corresponding to 25/12/2022G)
Private Tourism Accommodation Facilities Regulations	01/06/1444 AH (Corresponding to 25/12/2022G)
Tourism Consultancy Regulations	01/06/1444 AH (Corresponding to 25/12/2022G)
Experiential Activities	01/06/1444 AH (Corresponding to 25/12/2022G)
Tourism Activities Inspection Regulations	01/06/1444 AH (Corresponding to 25/12/2022G)
Destinations Development Regulations	21/05/1444 AH (Corresponding to 15/12/2022G)

Table 1

2. Class B: for the management of 4-star tourist accommodation facilities and less, and all other unclassified categories and types, and private tourist accommodation facilities.

3. Class C: for the management of 3-star or first-class tourist accommodation facilities and less, as well as other unclassified types, and private tourist accommodation facilities.

4. Class D: for the management of first-class tourist accommodation facilities and less, as well as other unclassified types and private tourist accommodation facilities.

There are separate special classification criteria for hotels in the holy cities of Makkah and Madinah.

The Regulations for Tourist Accommodation Facility Management sets out further requirements for applicants wishing to obtain a license from the MOT, including:

1. A valid license from the Ministry of Municipal and Rural Affairs and Housing or the competent authority, as the case may be.
2. Proof of experience as per the required class, and authentication thereof by the competent authority in the event that it was obtained outside the Kingdom.
3. Documents related to the mechanisms of tourist accommodation facility management, as defined by the Ministry.
4. Official data of the applicant and his representative in dealing with the Ministry

in relation to the activity, if any, and office data; and

5. Proof of the right to use the trademark, if any. The applicant shall fill out the license application form prepared by the Ministry.

THE NEWLY ISSUED TOURISM LAW IMPLEMENTING REGULATIONS

We set out in Table 1 the newly issued Implementing Regulations of the Tourism Law to provide clarity and understanding of the regulatory environment governing various subsectors of the tourism industry within KSA. 🇸🇦



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