



**2022 GUIDE ON TOURIST
RESORT INVESTMENTS IN
THE MALDIVES**





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INTRODUCTION

This guide provides an overview of the relevant laws, regulations, and existing policies in respect of tourist resort development and operation for those interested in investing in the Maldives tourism landscape. The contents of this guide are not comprehensive in nature, however, will provide information on key areas in resort investments which may help to provide greater clarity on the matter.

Key areas covered in this guide are:

- Tourism Law
- Foreign Investment
- Resort Concepts
- Land Lease
- Land Acquisition
- Development Matters
- Operation Matters



TOURISM LAW

The 'Maldives Tourism Act [Law No. 2/99]' (**Tourism Law**) came into force in 1999. Over the years, the law has undergone several amendments to it to cater to the evolution of the tourism industry throughout the country. The most recent of which includes the introduction of new tourism concepts such as integrated tourist resorts and private islands. The government's regulatory body tasked with the regulation of tourist resorts (**Resorts**) and other tourism establishments is the Ministry of Tourism (**MoT**).

Some matters governing Resorts regulated under Tourism Law include:

- Acquisition methods of an island, land, and lagoon from the government

- Terms contained under the lease agreement with the government

- Land rent

- Return of physical possession of a Resort on expiry or termination of a lease

- Lease Period and its extension

Significant regulations governing Resorts made under Tourism Law include:

- Regulations on the Grant of Rights of Tourist Resorts [Reg. No. 2010/R-14] (**Grant of Rights Regulations**)

- Regulations on the Extension of Construction Periods and Deferment of Land Rent in Connection to Places Leased for Tourism Purposes [Reg. No. 2019/R-1041] (**CP Extension Regulations**)

- Regulations on Lease Rent Payable for Islands, Lagoons, and Lands Leased for Tourism Purposes [Reg. No. 2021/R-171] (**Lease Rent Regulations**)

- Regulations on the Determination of the Boundary Area of Islands Leased for the Development of Tourist Resorts, Hotels, Guesthouses and Yacht Marinas [Reg. No. 2012/R-7] (**Boundary Regulations**)

- Regulations on the Safety Standards of Tourist Establishments [Reg. No. 2020/R-27] (**Safety Standards Regulations**)



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| <ul style="list-style-type: none">▪ Procedure on expiration or termination of a lease | <ul style="list-style-type: none">▪ Regulations on the Collection of Data for the Compilation of Tourism Statistics [Reg. No. 2020/R-39] (Statistics Regulations) |
| <ul style="list-style-type: none">▪ Termination of a lease for national defence purposes | <ul style="list-style-type: none">▪ Regulations on the Conducting of Symbolic Marriages for Tourists [Reg. No. 2020/R-36] (Symbolic Marriage Regulations) |
| <ul style="list-style-type: none">▪ Assignment of rights to third parties | <ul style="list-style-type: none">▪ Regulations on the Leasing of Islands, Land or Lagoons as Cross Subsidisation [Reg. No. 2021/R-114] (Cross Subsidisation Regulations) |
| <ul style="list-style-type: none">▪ Environmental assessments of an island, land, or lagoon for Resort development | <ul style="list-style-type: none">▪ Regulations on the Development and Operation of Integrated Tourist Resorts [Reg. No. 2021/R-64] (Integrated Resort Regulations) |
| <ul style="list-style-type: none">▪ Tourism taxes | <ul style="list-style-type: none">▪ Regulations on the Development of and Leasing of Private Islands [Reg. No. 2021/R-71] (Private Island Regulations) |
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FOREIGN INVESTMENT

A foreign investor can hold 100% foreign ownership in a Resort business. Further, there is no minimum investment amount to be committed for investment in Resort ownership and operation.

Investments in Resorts also offer:

- Efficient entity registration services;
- Long-term land lease of up to 99 years;
- Corporate Resident Visa for 5 years with extensions;
- Overseas arbitration of disputes;
- Recognition and enforcement of foreign arbitral awards;
- Investment programs for foreign portfolio investors;
- Custom duty exemptions for large scale projects;
- Third party contracts which can be governed by foreign laws;
- Discretion to use foreign managerial, technical and unskilled workers;
- No foreign exchange restrictions; and
- No restrictions on repatriation of profits and capital proceeds.

The 'Law on Foreign Investments in the Maldives' [Law No. 25/79] along with the 'Foreign Direct Investment Policy' requires foreign investors to obtain foreign investment approval and register its business vehicle with the Ministry of Economic Development prior to acquisition of an island, land, or lagoon.

Entry into the Maldives under the law itself is an automatic process provided the prescribed supporting information and documents are filed with the said Ministry.

This process requires:

- Foreign investment approval for all investors whether they are natural persons or legal entities; and
- Set up and registration of a company to hold the lease or operate the Resort.

The following information and documents are required:

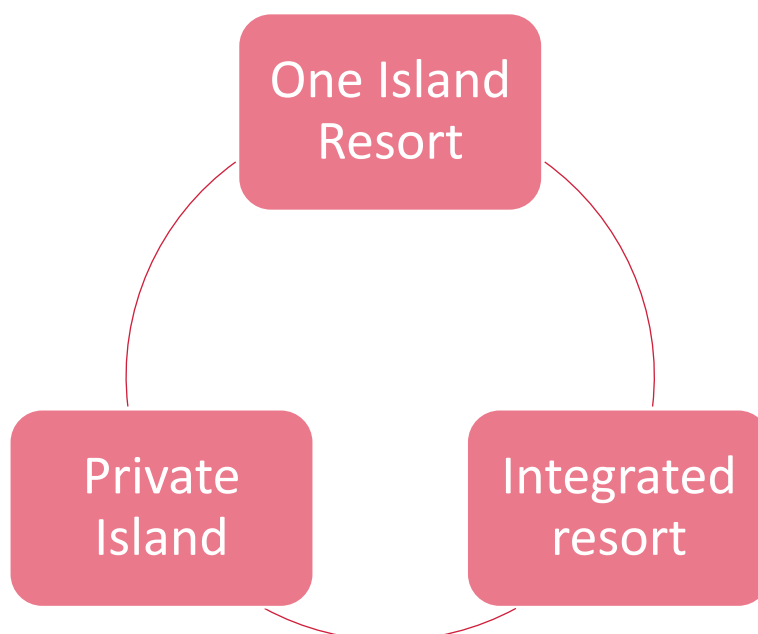
- Technical and specific details of the proposed company set up; and
- A letter of good standing/financial credibility from a reputable bank in respect of each investor (natural persons or legal entities) of the proposed company.

An administrative fee of USD 5000 is required to be paid to the government along with nominal fees for company registration matters. It takes a period of 2-3 weeks for the completion of above processes.



RESORT CONCEPTS

There are 3 types of Resort concepts allowed under Tourism Law:



a. One Island Resort

This is the traditional Resort concept whereby a single island (natural or reclaimed) and its surrounding lagoon is developed and operated as one Resort.

This concept of Resorts is most prevalent in the Maldives and has proven to be a preferred option for tourists who prefer the isolated, private, and quiet holiday experience.

The model is the cornerstone of the unique Maldivian Resort model, and its regulation has been guided through the years by a combination of regulations, policies and practices of MoT.

b. Integrated Resort

This is the modern Resort concept which aims to promote economic growth to a variety of tourism beneficiaries. Here, a single island or land from within an island is developed and operated within a classified tourism zone with various tourism establishments such as resorts, hotels, guesthouses, yacht marines and so on.

This concept has been in development for the past few years and was officially recognised as a tourism concept with the recent amendments to the Tourism Law.



Matters governing this model are outlined in the 'Integrated Resort Regulations'.

c. Private Island

This concept is entirely new to the Maldives economic landscape whereby an island is reclaimed from within a designated lagoon area and is therein leased to an investor for long-term personal use rather than Resort development or its equivalent commercial use.

The long-term lease for Private Islands are granted for up to 50 years and may be further extended up to a total of 99 years. The investor would be required to pay a land rent at the rate of USD 1 per sqm annually.

Matters governing this model are outlined in the 'Private Island Regulations'.



LAND LEASE

a. Land Lease

Islands, lands, and lagoons are granted to investors by the State under a long-term lease. This is because in the Maldives, the State retains the freehold ownership of such properties, and a tourism investor is granted leasehold ownership of such properties under a lease agreement (**Lease Agreement**).

The State in such an agreement is represented by MoT who becomes the landlord or lessor while the tenant or lessee is the investor.

The Lease Agreement provides for all terms governing the leasehold relationship between MoT and the investor.

b. Land Title

Although the State retains the freehold ownership of all islands, lands, and lagoons leased for Resort development, the title to the said leasehold rights is evidenced by the Resort registration certificate or Resort registry (**Resort Registry**). This is the title deed issued by the lessor, MoT and details all key information regarding the leasehold rights over such property.

The Resort Registry amongst other matters, will record all rights granted over the Resort property including head or sublease rights, management rights and mortgage rights.

In relation to mortgaged rights, the registry will be kept in the possession of the bank under which the mortgage is created in favour of and will only be released and discharged by the bank on full settlement of the loan taken by the investor.



LAND ACQUISITION

Acquisition through the Government

- Open Bidding
- Closed Bidding
- Cross Subsidization

Acquisition through an Existing Owner

- Lease Acquisition
- Share Acquisition

Other Methods of Investing

- Sublease
- Management
- Strata Lease
- Third Party Services

Acquisition through the Government

Tourism Law allows for 3 methods in which islands, lands, and lagoons can be acquired for Resort investment directly through the government:

a. Open Bidding

Here investors can acquire an island, land, or lagoon through a public tender process.

MoT will announce an invitation for bids (IFB) for the public tender of designated islands, lands, or lagoons. The IFB will typically list out the available islands, land and lagoons further details will be given by MoT via virtual information sessions conducted regarding the bidding process.

A minimum lease acquisition cost (LAC) will be set for the bid of each island, land and lagoon and will vary for different properties depending on the location, land area size, and prevalent market rates.

In addition to the LAC, there are associated costs for purchasing bidding documents as well as a bank guarantee to be provided as a bid security.

Matters governing this process are outlined in the IFB and disclosed during the virtual information sessions conducted by MoT.

b. Closed Bidding

Under this process, investors may acquire an island, land, or lagoon through submission of an unsolicited proposal outlining an investors plan to develop such property in line with Tourism Law.



This method was most recently practiced between the years 2016-2018 accompanying regulations governing the matter.

At present, MoT has discontinued this method of acquisition until further notice.

c. Cross Subsidization

This process is not new to the Maldivian investment landscape.

It has been practiced for quite some time tied to social or economic large-scale infrastructure projects but has only recently been incorporated into the Tourism Law.

Here, an investor is granted an island, land, or lagoon in consideration for carrying out a major development project for the benefit of the country.

The value of the investment made in respect of the development project is compensated by deduction from the lease rent payable in respect of the property.

Matters governing this process are outlined in the 'Cross Subsidization Regulations'.



Acquisition Through Existing Owners

There are also methods in which islands, lands, and lagoons can be acquired for Resort investment through an existing leaseholder:

Lease Acquisition

- Investor acquires the leasehold rights and obligations over an island, land, or lagoon from an existing Resort lease owner for the remaining period of a lease, provided MoT's prior written consent is obtained.
- An administrative fee of USD 100,000 is payable to the government prior to the transfer or sale of the leasehold rights and where the said property's development has not been completed at the time of the proposed transfer or sale.
- Matters governing this process are outlined in the 'Grant of Rights Regulations'.

Share Acquisition

- Investor acquires shares in the company holding a lease over an island, land, or lagoon, provided MoT's prior written consent is obtained.
- An administrative fee of USD 100,000 is payable to the government prior to the transfer of shares and where the said property's development has not been completed at the time of the proposed transfer.
- Matters governing this process are outlined in the 'Grant of Rights Regulations'.



Other Methods of Investing

In addition to the acquisition methods described above, there are other ways in which an investor may invest in Resort businesses. This is by entering into third party contracts with parties holding various leasehold rights over islands, lands, or lagoons:

a. Sublease

This is a process under which an investor (proposed sublessee) acquires all leasehold rights granted to an existing Resort lease owner under a sublease arrangement. The sublease right created and the agreement governing this right must be registered with MoT provided MoT's prior written consent is obtained. Matters governing this process are outlined in the 'Grant of Rights Regulations'.

b. Management

Under this process, an investor (proposed manager) can acquire the right to manage a Resort property from an existing Resort head or sub lease owner by entering a management arrangement. The right to manage such property and the agreement governing this right must be registered with MoT provided MoT's prior written consent is obtained. Matters governing this process are outlined in the 'Grant of Rights Regulations'.

c. Strata Lease

Here an investor (proposed strata lessee) can acquire the right to use a villa or room situated within a Resort for long term from a party holding a Resort head or sub lease under a strata lease and management arrangement. The right to use such villa or room and the lease and management agreements governing these rights must be registered with MoT provided MoT's prior written consent is obtained. Matters governing this process are outlined in the Tourism Law.

d. Third Party Services

This process allows an investor to enter into a service arrangement with a Resort operator for provision of various hotel services such as diving and water sports, speedboat transfers, jewellery shops, guest shops, spas, and so forth. Matters governing third party services are outlined in the Tourism Law as well as the specific guiding regulations on them.



DEVELOPMENT MATTERS

Matters regarding the development of Resorts are governed under Tourism Law, relevant regulations, policies, terms of the Lease Agreement as well as the development guidelines published by MoT from time to time. These development rules apply when developing Resort properties on green field islands, lands, or reclamation of lagoons and applies to operational Resorts when constructing additional structures or carrying out any renovations or refurbishments work on such properties.

a. Approvals

There are various types of documents which require approval from relevant government authorities prior to commencement with construction and during construction.

There are also permits issued by authorities in connection to construction of Resorts.

Some of these include:

- Land Area Registration;
- Work Plan;
- Development Concept;
- Environment Assessment Impact (EIA) Report and Decision Statement;
- Dredging and Reclamation Permit (for lagoons);
- Mobilisation Permit;
- Detailed Drawings;
- Construction Permit;
- As-Built Master Plan; and
- Construction Period Extensions (if required).

These approvals can be revised any time during the construction phase provided

MoT's prior written approval or endorsement is obtained.

b. Development Guidelines

At present, the allowed percentage for construction of a Resort's infrastructure on an island is a maximum of 30% of the islands registered land area (**Built-up Area**).

There should be a beach length of 5 meters from the vegetation line of an island from where structures (beach front rooms) are constructed. A minimum of 2 meters are to be kept between rooms (beach front or garden view) and over water villas are not to be constructed in a way to obstruct the view of beach front rooms. Garden views are to be located away from staff areas with the aim of ensuring guest privacy.

Matters governing these requirements are outlined in the 'Resort Development Guidelines'.

c. Lease Period

Newly granted Islands, lands, and lagoons are leased for a long-term duration of 50 years.



Tourism Law allows an extension of the lease period up to 99 years provided:

- all due lease rent / taxes / fines / outstanding payments (excluding those deferred) are settled to date;
- the Resort is operational; and
- a single sum of USD 5,000,000 is paid to the government if requesting for an extension before 26 December 2022 or a single sum of USD 10,000,000 is paid to the government if requesting for an extension after the said date.

Matters governing lease period extensions are outlined in the 'Tourism Law'.

d. Grace Period for Lease Rent

A grace period is granted under the Lease Agreement in respect of the lease rent payable to the government.

This grace period will start from the commencement of the Lease Agreement and will end on the expiry of the initial construction period granted to develop and construct a Resort.

Once the construction period ends or is extended, land rent will kick in and become due unless it has been deferred for the same duration as the extension of the construction period.

Matters governing land rent are outlined in the 'Land Rent Regulations' and rent

deferment is outlined in the 'CP Extension Regulations'.

e. Construction Period

A construction period or commonly referred to as the 'CP' is a specified period given under the Lease Agreement to develop and construct a Resort.

The CP will start from the commencement date of the Lease Agreement and will end on the specified period stated under the agreement.

Typically, a period of 24-36 months is granted for a Resorts development and where reclamation is required, a period of 36-48 months.

Matters governing this area are outlined in the 'CP Extension Regulations'.

f. Boundary Area

The boundary area of a Resort is typically identified in the Lease Agreement.

Where the Lease Agreement is silent as to the actual area of the Resort's surrounding lagoon, an area of 500 meters in radius starting from the beachfront vegetation line of an island towards the outer edge of the reef is considered as the Resort or island boundary.

Matters governing this area are outlined in the Boundary Regulations.



g. Duty Exemption

Duty can be exempted from imported goods (materials / machinery) to a duty value of up to 5% of the capital investment value of a Resort project.

The value of the capital investment is determined by the project's 'Bill of Quantities' (**BOQ**) which is required to be attested by a registered quantity surveyor.

Matters governing this area are outlined in the 'Duty Exemption Procedure' dated 21 February 2021.

h. Mortgage Rights

A head or sublease owner of a Resort is granted the right to mortgage a head or sublease right of a Resort during its development or operational stage provided MoT's prior written consent is obtained.

The mortgage(s) can be created with local or foreign banks.

Similarly, a strata villa or room leaseholder may also mortgage their rights over the villa or room.

Matters governing mortgaging are outlined in the 'Grant of Rights Regulations'.



OPERATION MATTERS

A Resort may be operated by a head or sublease owner however, typically, a head or sublease owner appoints a managing party to operate the property under a 'Hotel Management Agreement' (HMA). There are many international hotel franchise operators present in the Maldives under this arrangement.

Tourism Law does not regulate on matters related to Resort ratings and the Maldives does not have a hotel rating system established. Resort operators may, however, rate their properties for marketing purposes.

a. Licenses

There are various types of licenses / approvals / permits which a Resort would be required to obtain from relevant government authorities prior to its operations.

Some of these include:

- Resort Operating License;
- Resort Registration Certificate or Land Registry);
- Business Name Registration Certificate in respect of the Resort;
- Business Name Registration Certificates in respect of all restaurants, dive centre, spa and water sports centre;
- Logo Registration Certificate;
- License to Import Liquor and Pork;
- Bar operation permit;
- License for Sale and Resale of goods in respect of shop outlets;
- Importer / Exporter registry;
- Customs portal registration;
- Tax registration (TGST, Green Tax etc);
- MIRA portal registration;

- Dive centre registration;
- Symbolic wedding registration;
- Powerhouse registration;
- Desalination plant registration;
- Money exchange license (optional);
- Medical clinic registration as per the health regulation of the Maldives and HPA guidelines; and
- Doctors' registration as per the Maldives Medical Council.

These licenses can be transferred to a new operator on acquisition or transfer of a property.

b. Lease Rent

Lease rent is payable to the Maldives Inland Revenue Authority annually on a quarterly basis. Rental rates are higher for properties located within the central regions of the Maldives.

Lease rent rates are calculated based on:

- registered land area of a Resort;



- geographical location of the Resort within the Maldives; and
- whether the Resort is located within an uninhabited island (for One Island Tourist Resort) or an inhabited island (for Integrated Tourist Resort).

The rates are provided in Annex One and Annex Two of the Tourism Law whereas other matters governing rent are outlined in the 'Lease Rent Regulations'

c. **Tourism Taxes**

There are a range of taxes payable for Resort operations outlined under the 'Tourism Law' and tax laws.

Some of the taxes include:

- Tourism Goods and Services Tax (**TGST**) charged at the rate of 12%;
- Green Tax charged at a rate of 6%.
- Income Tax charged at the rate of 15%;
- Non-Resident Without Holding Tax (**WHT**) charged at the rate of 10%; and
- Employee Withholding Tax (**EWHT**) charged at a rate between 0 - 15%.

d. **Employment and Service Charge**

Matters governing employment are regulated under the Employment Act [Law

No.2/2008] (**Employment Law**) which requires all employers to enter into an employment agreement with all employees and provides for minimum requirements and safeguards for those in employment. Additionally, a special set of rules applicable to foreign employees are contained in the Regulations on Foreign Employees in the Maldives [Law 2021/R-16] (**Foreign Employee Regulations**).

Although an employer may hire foreign staff, Tourism policy allows hiring of foreign staff at a maximum rate of 55% of the total percentage of employees in a Resort.

Employment Law makes it mandatory for Resorts to collect service charge at the minimum rate of 10% from each service provided at a Resort and to be distributed equally (no distinction is drawn between senior management or junior staff) amongst a Resort's employees whether they take direct or indirect part in the provision of such services. Matters governing service charge collection and distribution are outlined in the Employment Law and the 'Regulations on Service Charge' [Reg. No 2021/R-41].

Written By:



Shyma Shameem
Managing Partner
shyma@correl.mv

ABOUT US

Correl Counsels LLP is a multi-disciplinary firm registered in the Maldives to provide legal, consulting, and tax advisory services for the benefit of foreign and locally owned businesses within the Maldives.

Our team comprises of lawyers and consultants with industry and commercial insights to provide a comprehensive suit of commercial services - be it strategic, operational, or transactional and all under one roof.



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