

TOURISM DEVELOPMENT BILL, 2018

(Bill of 2018)

ARRANGEMENT OF SECTIONS

PART 1 – PRELIMINARY

SECTIONS

1. Short title and commencement
2. Interpretation

PART II – ADMINISTRATION

3. Functions of Ministry
4. Agreement or arrangement

PART III- CLASSIFICATION SYSTEM

5. Classification criteria
6. Revision of classification criteria
7. Application for classification

PART IV – COMPLIANCE

8. Licensing procedure
9. Appointment of Inspectors and their power of Inspection
10. Investigation of complaint
11. Information on tourism enterprises
12. Consequence for non-compliance

PART V- MISCELLANEOUS

13. Offences
14. Compounding of offence
15. Protection against actions done in good faith
16. Regulations
17. Transitional provisions

TOURISM DEVELOPMENT BILL, 2018

(Bill... of 2018)



A BILL

OF

AN ACT to facilitate the planning and implementation of policies relating to the tourism industry; to provide for the regulation and monitoring of the industry and for matters connected therewith or incidental thereto.

ENACTED by the President and National Assembly.

PART I – PRELIMINARY

1. This Act may be cited as the Tourism Development Act, 2018 and shall come into force on such date as the Minister may, by notice in the Gazette, appoint. Short title and commencement
2. In this Act, unless the context otherwise requires — Interpretation

“accommodation enterprise” means a guesthouse, hotel, island resort or self-catering establishment;

“classification criteria” means the grading criteria for hotels of more than 15 rooms and island resorts of all sizes from 1 star to 5 star and self-catering establishments, guesthouses and hotels of 15 rooms or less, as prescribed under the Act;

“guest or client” means a person who uses the facilities or checks in a licensed accommodation for the purpose of being lodged in exchange for a financial consideration which may be calculated on a daily basis, or all inclusive, or for a reward of any kind whatsoever;

“guesthouse” means either a purpose-built or converted house, cottage, chalet, or other types of buildings adapted to provide lodging or sleeping accommodation, run as a commercial operation, and has common areas which are for the exclusive use of its guests;

“hotel” means an establishment containing several rooms or suites, supplemented by one or more separate buildings that provides lodging or sleeping accommodation and ancillary food and beverage areas including a reception area and offers food and beverage services to guests and general public;

“Inspector” means an Inspector appointed under section 9;

“island resort” means a hotel based on any island other than Mahé, Praslin, La Digue or Cerf Island within the Republic, offering several rooms or suites supplemented by one or more separate buildings for lodging or sleeping accommodation including a reception area, and offers its guests or clients accommodation on full board basis as well as other facilities;

“Licenses Act” means the Licenses Act (Cap 113);

“licensed accommodation” means an accommodation establishment licensed by the Seychelles Licensing Authority under the Licences (Accommodation, Catering and Entertainment) Regulations, 2001;

“minimum requirements” means the minimum criteria for a hotel, guesthouse, self-catering establishment, island resort or restaurant prescribed under the Act;

“Minister” means the Minister responsible for Tourism and the Ministry shall be construed accordingly;

“prescribed” means prescribed by regulations made under the Act;

“self-catering establishment” means a purpose built or a converted house, cottage, chalet, bungalow, flat, apartment or villa that provides lodging or sleeping accommodation, where the facilities and equipment are provided for guests or clients to cook or prepare their own meals, and which facilities are adequate to cater or accommodate for the maximum number of guests or clients as licensed ;

“tourism enterprise” means a person or a body of persons who or which carries one or more of the following businesses—

- (a) provision or arrangement either wholly or in part of services for visitors to Seychelles by way of but not limited to transport, accommodation, catering tours or guides, maritime related activities within or outside Seychelles; and
- (b) distributing, wholly or in part for purposes of trade or retailing tourism related goods and services.

PART II – ADMINISTRATION

3.(1) The Ministry shall—

- (a) develop and implement policies, programmes and guidelines in pursuance of the national objectives on tourism development;
- (b) promote the efficient and sustainable development of tourism and to enhance its contribution to the national economy;

Functions
of Ministry

- (c) advise and assist the private sector in the development of infrastructures and improvement of amenities and facilities supporting the tourism industry;
- (d) exercise general supervision over tourism enterprises;
- (e) establish a code of practice and standards for tourism enterprises and to ensure that they are complied with;
- (f) promote the development of human resources in tourism and related fields;
- (g) promote the development of domestic tourism;
- (h) promote the development of cultural and eco-tourism services;
- (i) ensure that disaster preparedness and risk management is integrated in the management plans of tourism enterprises;
- (j) co-ordinate the activities of other agencies concerned with the development of tourism under any written law;
- (k) develop, evolve and where necessary adopt criteria for the enhancement of the standards of accommodation, facilities, tourist services and related amenities and support structures necessary to facilitate and support tourists in Seychelles;
- (l) prescribe, regulate, maintain and enforce the standards to be maintained by the different tourism enterprises of the tourism industry;
- (m) ensure that the tourism industry is prepared and able to respond to any crisis regarding safety and security of tourists;
- (n) engage consultants both local and foreign, whenever the need to do so arises for the efficient discharge of its functions;

- (o) consult tourism bodies for the development of the tourism industry;
- (p) do all such other acts as may be necessary or conducive to the attainment of all or any of the above functions.

(2) The Minister may, prescribe the policies of the Government in the tourism sector.

(3) The policies prescribed under subsection (2) may be reviewed and revised by the Government from time to time.

4. The Minister may negotiate and enter into agreements or arrangements relating to tourism with—

Agreement or arrangement

- (a) any statutory agency or body established by the Government;
- (b) international bodies;
- (c) any agency in the private sector; and
- (d) any other person.

PART III – CLASSIFICATION SYSTEM

5.(1) The Ministry shall develop a national classification system for accommodation enterprises with a view to maintain or enhance the standards and quality of tourism services, facilities and products.

Classification criteria

(2) The classification system shall promote excellence in the provision of tourism services, facilities and products.

(3) The classification system contemplated in subsection (1) shall provide for the establishment of one or more schemes in terms of which tourism services, facilities and products are classified or graded.

(4) A scheme under subsection (3) may—

- (a) apply to any basis of differentiation in respect of tourism

services, facilities and products;

- (b) classify tourism services, facilities and products into different classes on the ground of, amongst others, their nature, extent, variety, availability and quality;
- (c) make provision for the addition, continuation and termination of the scheme; and
- (d) make provision for the use and display of the prescribed insignia, which may include a depiction of a logo, star or number of stars indicating the grading awarded in terms of the scheme.

(5) The Minister shall classify or grade every accommodation enterprise as per the classification criteria as may be prescribed.

(6) The classification or grading shall be as follows —

- (a) for hotels above 15 rooms and island resorts of all sizes—
 - (i) One star;
 - (ii) Two star;
 - (iii) Three star;
 - (iv) Four star; or
 - (v) Five star.
- (b) for hotels of 15 rooms or less and self-catering establishments and guest houses —
 - (i) Seychelles Secrets Bronze;
 - (ii) Seychelles Secrets Silver; or
 - (iii) Seychelles Secrets Gold.

(7) The classification or grading made under subsection (5) shall be valid for two years.

6. The classification or grading under section 5(5) may be revised taking into consideration of the changing trends and guest expectations in the tourism industry.

Revision of classification criteria

7.(1) A person who intends to operate or operating an accommodation enterprise may apply to the Ministry for classification of his or her accommodation enterprise in such form and accompanied by such fees as may be prescribed.

Application for classification

(2) The Ministry shall, on receipt of an application under subsection (1) make an enquiry through the Inspector and thereupon take decision on the application.

PART IV – COMPLIANCE

8. An applicant for a licence under regulation 3 of the Licences (Accommodation, Catering and Entertainment Establishments) Regulations, 2001 (S.I. 10 of 2001) for hotel, self-catering, guest house, restaurant or any other tourism enterprise shall comply with the minimum requirements as may be prescribed.

Licensing procedure

9.(1) The Minister may appoint such number of Inspectors as may be necessary for carrying out the functions and duties assigned to them under this Act.

Appointment of Inspectors and their power of inspection

(2) The Ministry shall provide the Inspector with an identification card and the Inspector shall, upon request produce his or her card before exercising any power under this Act.

(3) The Inspector shall, for the purpose of ensuring consistency in the quality of the product and visitor satisfaction, carry out assessments—

- (a) before recommending a licence and upon renewal of a licence; and
- (b) at least once a year or as often as necessary with or without notice to all licensed tourism enterprises, to ensure compliance with the minimum requirements.

- (4) The Inspector has power under this Act for—
- (a) inspection of tourism enterprises;
 - (b) recommend for grading of accommodation enterprises;
 - (c) investigation of illegal tourism operation;
 - (d) monitoring and verification of risk management plans for disaster preparedness; and
 - (e) any other functions as may be authorised by the Minister under this Act.

(5) The Inspector shall give reasonable notice to the responsible person of the licensed tourism enterprise of its intention to exercise the powers under subsections (3) and (4).

(6) The Inspector may, where it appears that the circumstances justify, exercise the power under subsections (3) or (4) without giving notice.

(7) The Inspector has the right to enter any place or premises at any reasonable time with such assistance as the officer considers necessary, for the performance of his or her functions under this Act.

(8) Where a licensee fails to comply with the minimum requirements, the Inspector shall recommend to the Minister the suspension or cancellation of the licence and the Minister shall thereupon make recommendations for suspension or cancellation, as the case may be, to the Seychelles Licencing Authority.

Investigation
of complaint

10. The Ministry shall investigate any complaint made against a tourism enterprise.

Information
on tourism
enterprises

11.(1) The Ministry may, for purposes of planning, and with a view to the development and growth in the tourism sector, establish and maintain a database of information on tourism businesses.

(2) The Minister may for the purposes of subsection (1), prescribe the categories of tourism enterprises that shall provide information, and shall in this regard determine —

- (a) the period within which information is to be provided;
- (b) the form and manner for providing information; and
- (c) the information which shall be provided, in relation to each tourism enterprise.

(3) The Ministry may require a tourism enterprise to furnish such information and statistics in regard to customers and the operation of the facility or activity as it considers necessary.

12.(1) Where a tourism enterprise —

Consequence
for non
compliance

- (a) fails to maintain the minimum requirement for a licence type or classification; or
- (b) fails to display or market itself as per the classification specified by the Ministry, the Ministry may take any of the actions specified in subsection (2).

(2) The action to be taken for any failure under subsection (1) may be—

- (a) reduction of the classification;
- (b) temporary suspension of the classification or grading;
- (c) revocation of classification or grading; or
- (d) recommendation for suspension or revocation of the licence to the Licencing Authority.

PART V – MISCELLANEOUS

13.(1) A person who—

Offences

- (a) operates any accommodation enterprise without the classification or grading;
- (b) displays or markets their accommodation enterprise against their classification or grading;

- (c) fails to provide the information called for under section 11,

commits an offence and is liable on conviction to a fine not exceeding SCR1000,000.

Compounding
of offences

14.(1) Where a person agrees in writing to the compounding of an offence punishable on conviction with fine, the Minister may in consultation with the Attorney General, compound the offence as prescribed by regulations.

(2) In any proceedings brought against any person for an offence under this Act it shall be a good defence if the person proves that the offence has been compounded under this section

Protection
of action
taken in
good faith

15. Any suit or other legal proceedings shall not lie against any officer or other employee of the Ministry for anything done or intended to be done in good faith in pursuance of this Act.

Regulations

16.(1) The Minister may make regulations for the purpose of carrying out the provisions of this Act.

(2) Without prejudice to the generality of the power under subsection (1), such regulations may provide for—

- (a) national classification system for accommodation enterprises under section 5(1);
- (b) classification criteria for grading under section 5(5)
- (c) minimum requirement under section 8(1);
- (d) the categories of tourism enterprises that shall provide information under section 11(2); and
- (e) compounding of offence.

Transitional
provision

17.(1) All the existing accommodation enterprises shall be liable to obtain the classification or grading under section 5(5) within such time as may be notified by the Minister by Regulations.

(2) Notwithstanding the provisions of the Act, the regulations made under section 16(2) (c) may provide for specific time frame for the compliance with the minimum requirements which are newly introduced.

DRAFT