

TOURISM DEVELOPMENT ACT, 2019

(Act 8 of 2019)

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TOURISM DEVELOPMENT ACT, 2019

(Act. 8 of 2019)

I assent

A handwritten signature in black ink, appearing to read 'Danny Faure', written over a horizontal line.

Danny Faure
President

22nd August, 2019



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

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

1. This Act may be cited as the Tourism Development Act, 2019 and shall come into force on such date as the Minister may, by Notice published in the Gazette, appoint.

Short title and commencement

Interpretation

2. In this Act, unless the context otherwise requires —

“Appeals Board” means the Appeals Board established under section 8;

“accommodation establishment” means a guesthouse, hotel, island resort or self-catering establishment licensed under the Licenses (Accommodation, Catering and Entertainment) Regulations, 2001 (S.I. 10 of 2001);

“classification or grading criteria” means the criteria prescribed under section 6, for the purposes of classification or grading of accommodation establishments;

“grading insignia” means the stars and Seychelles Secrets Logo awarded to accommodation establishments classified or graded under section 6;

“guest or client” means a person who uses the facilities of a licensed accommodation establishment or tourism enterprise in exchange for a financial consideration;

“guesthouse” means an establishment containing several rooms or suites, supplemented by one or separate buildings that provides lodging or sleeping accommodation, which includes a reception and common areas with ancillary food and beverage facilities that are solely for the use of its in-house 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 offering food and beverage services, entertainment and other facilities to its in-house guests and the general public;

“Inspector” means an Inspector appointed under section 11;

“island resort” means an establishment 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 offering its guests or clients accommodation on full board basis and other facilities;

“Licensing Authority” means the Seychelles Licensing Authority established under the Licenses Act (Cap 113);

“minimum requirements” means the minimum criteria, for a hotel, guesthouse, self-catering establishment, island resort, restaurant or any tourism enterprise as may be prescribed under section 10;

“Minister” means the Minister responsible for Tourism and “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 for or accommodate the maximum number of guests or clients as licensed;

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

- (a) provision or arrangement either wholly or in part of services for visitors to Seychelles by way of transport, accommodation, catering tours, guides, or maritime related activities within or outside Seychelles; and
- (b) distributing, wholly or in part for the purposes of trade, or retailing tourism-related goods and services.

PART II - OBJECTS OF THE ACT

Objects of
the Act

3. The main objects of the Act are —

- (a) to enable the Ministry of Tourism to develop programmes and guidelines relating to the tourism sector so as to meet the national objectives on tourism development;
- (b) to enable the Ministry of Tourism to exercise general supervision over the tourism sector;
- (c) to promote efficient and sustainable development in the tourism sector and to enhance the sector's contribution to the national economy;
- (d) to establish a code of practice and standards for tourism enterprises and ensure that they are complied with by service providers;

- (e) to develop criteria which shall be necessary for the enhancement of standards of tourism enterprises, facilities and allied tourist services;
- (f) to oversee the quality of services provided by service providers to ensure that consumers of the tourism sector receive value for their money;
- (g) to promote the development of cultural and eco-tourism services; and
- (h) to enable the Ministry to co-ordinate the activities of other statutory bodies associated with the development of the tourism sector.

PART III - ADMINISTRATION

4. The Minister may by regulations establish such Agencies or Authorities as may be necessary for carrying out the objects under this Act.

Establishment
of Agencies
and Authorities

PART IV - POLICIES ON TOURISM SECTOR

5. The Minister may make policies relating to the tourism sector in respect of the following —

Policies on
Tourism sector

- (a) Accommodation establishments;
- (b) Boat Charters;
- (c) Dive Centres;
- (d) Dive Operators;
- (e) Entertainment;
- (f) Restaurants;

- (g) Tour Guides;
- (h) Tour Operators;
- (i) Travel Agents;
- (j) Vertical Integration;
- (k) Water Sports;
- (l) Yacht Charters; and
- (m) Any other policy that may be necessary to achieve the purposes of this Act.

PART V - CLASSIFICATION SYSTEM

Classification
or grading
criteria

6.(1) The Ministry shall develop a national classification system for accommodation establishments with a view to maintaining or enhancing the standards and quality of tourism services and facilities.

(2) It shall be mandatory for every accommodation establishment having more than 50 rooms to be graded under the classification system.

(3) Grading under the classification system shall be optional for accommodation establishments having 50 rooms or fewer.

(4) Accommodation establishments which choose not to be graded under subsection (3), but use grading insignia, stars and the Seychelles Secrets Logo in their marketing and advertisements shall commit an offence and shall be liable on conviction to a fine not exceeding SCR 100,000.

(5) Accommodation establishments displaying ratings obtained from guest reviews on their online booking platforms or in their marketing advertisements shall specify that the

ratings are given by their guests and are not related to the national classification system.

(6) No Destination Management Company, Tour Operator, Travel Agent or online booking platform registered in the Republic of Seychelles shall market or advertise an accommodation establishment with a grade by using the star grading or Seychelles Secrets Logo unless the grade has been granted by the Ministry of Tourism.

(7) A Destination Management Company, Tour Operator, Travel Agent or online booking platform registered in the Republic of Seychelles which contravenes subsection (6) shall commit an offence and shall be liable on conviction to a fine not exceeding SCR100,000.

(8) The national classification system under subsection (1) shall provide for the establishment of one or more schemes in terms of which accommodation establishments are to be classified or graded.

(9) A scheme under subsection (8) may provide for—

- (a) classification or grading of accommodation establishments on the grounds, amongst others, of their standards and quality of services and facilities;
- (b) addition, continuation and termination of the scheme; and
- (c) the use and display of the prescribed insignia, which may include a depiction of a logo, star or number of stars indicating the classification or grading awarded in terms of the scheme.

(10) A scheme under subsection (8) may be revised

taking into consideration of the changing trends and guest expectations in the tourism industry.

(11) The Ministry shall classify or grade accommodation establishments in accordance with the classification or grading criteria as may be prescribed.

(12) The classification or grading under subsection (11) shall be valid for two years.

Application
for
classification

7.(1) Subject to section 6, a person who intends to operate or is operating an accommodation establishment shall apply to the Ministry for classification of his or her accommodation establishment in such form and manner, accompanied by such fees and documents as may be prescribed.

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

PART VI - APPEALS BOARD

Appeals
Board

8.(1) There shall be an Appeals Board consisting of three persons, one of whom shall be the Chairperson, appointed by the President on the recommendation of the Ministry,

(2) The Appeals Board may appoint any person for giving assistance in deciding any particular appeal, on such terms and conditions as may be determined by the Appeals Board.

(3) The Chairperson and members of the Appeals Board shall be persons having qualifications and experience in the tourism sector, as may be prescribed, and be of good character and integrity.

(4) A person shall not be appointed as Chairperson or member if that person —

- (a) is an owner or operator of, or has any interest in, an accommodation establishment; or
- (b) has been convicted and undergone imprisonment for a term of six months or more for an offence involving fraud, dishonesty or moral turpitude.

(5) The Chairperson and members of the Appeals Board shall hold office for a period of three years and shall be eligible for reappointment.

(6) The appointment of the Chairperson and members shall be on such terms and conditions as may be determined by the President.

(7) The President shall at any time terminate the appointment of the Chairperson or members if he or she has been found guilty of —

- (a) any misconduct, default or breach of trust in the discharge of his or her duties; or
- (b) an offence of a nature which renders it desirable that the Chairperson's appointment be terminated.

(8) The Appeals Board may regulate its own proceedings.

9.(1) A person aggrieved by any decision of the Ministry under sections 6 or 14 may appeal to the Appeals Board.

Appeals

(2) An appeal under subsection (1) shall be made within such time, accompanied by such fees and in such manner as may be prescribed.

(3) The Appeals Board may, where it entertains an appeal, decide the appeal by —

- (a) confirming the decision;
- (b) varying the decision;
- (c) quashing the decision; or
- (d) ordering the Ministry to reconsider the decision.

(4) Any person aggrieved by the decision of Appeals Board may prefer an appeal to the Supreme Court within a period of 30 days from the date of communication of the decision by the Appeals Board.

PART VII - COMPLIANCE

Minimum requirements for licence

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

(2) The Licensing Authority shall, before granting a licence to an applicant under subsection (1), consult the Ministry regarding compliance with the minimum requirements.

Appointment of Inspectors and their powers of inspection

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

(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 accommodation establishments and tourism enterprises, to ensure compliance with the minimum requirements.

(4) An Inspector appointed under subsection (1) may —

- (a) conduct inspection of accommodation establishments and tourism enterprises;
- (b) recommend the classification or grading of accommodation establishments;
- (c) conduct investigations to prevent illegal tourism operations;
- (d) carry out monitoring and verification of risk management plans for disaster preparedness; and
- (e) perform such 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 accommodation establishment or tourism enterprise as the case may be, of his or her 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 by recording the reasons in writing for dispensing with the issuance of notice under subsection (5).

(7) The Inspector may enter into 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 the Minister to suspend or cancel the licence, and the Minister shall thereupon make recommendation to the Licensing Authority for the suspension or cancellation of the licence.

Investigation
of complaint

12. The Ministry shall investigate any complaint made against any accommodation establishment or tourism enterprise.

Information
on tourism
enterprises

13.(1) The Ministry may, for the purposes of planning development and growth, establish and maintain a database of information on the tourism industry.

(2) The Minister may for the purposes of subsection (1), prescribe the categories of accommodation establishments and 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 accommodation establishment and tourism enterprise.

(3) The Ministry may require an accommodation establishment or 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.

14.(1) A tourism enterprise which —

- (a) fails to maintain the minimum requirements specified for a licence type or classification; or
- (b) fails to display or market itself as per the classification or grade specified by the Ministry,

Consequence
of non-
compliance

shall be liable to any of the actions specified under subsection (2).

(2) The Ministry may take the following actions for any failure under subsection (1)—

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

PART VIII - MISCELLANEOUS

15.(1) Notwithstanding anything to the contrary in section 6, a person who —

Offences

- (a) operates any accommodation establishment without its classification or grading;
- (b) displays or markets the accommodation establishment contrary to the classification or grading granted;

- (c) fails to provide the information called for under section 13,

commits an offence and shall be liable on conviction to a fine not exceeding SCR100,000.

Compounding
of offences

16.(1) Where a person agrees in writing to the compounding of an offence punishable under section 15, the Minister may, in consultation with the Attorney General, compound the offence as may be 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

17. 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

18.(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) Accommodation establishments, Boat Charter, Dive Centres, Dive Operators, Entertainment, Restaurants, Tour Guides, Tour Operators, Travel Agents, Vertical Integration, Water Sports and Yacht Charter under section 5;

(b) a national classification system for accommodation establishments under section

- (c) classification or grading criteria under section 6(11);
- (d) minimum requirements under section 10;
- (e) the categories of accommodation establishments and tourism enterprises that shall provide information under section 13(2);
- (f) compounding of offences; and
- (g) any other matter which is required to be, or may be, prescribed for implementation of this Act.

19.(1) All existing accommodation establishments which require classification under section 6 shall obtain the classification or grading within such time as the Minister may notify by regulations.

Transitional
provision

(2) Notwithstanding the provisions of the Act, the regulations made under section 18(2)(d) may provide for a specific time frame for compliance with the minimum requirements specified under section 10 of this Act.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 25th June, 2019.



Ms. Jutta Alexis
Clerk to the National Assembly

