



Official Gazette

No. 19

XLIV

No. 19

Published by Authority

Wednesday 13th March 2019

GOVERNMENT NOTICES

The following Government Notice is published by Order of the President.

No. 181 of 2019

GAZETTE SUPPLEMENT

The following Bill is published as a Legal Supplement to this number of the Official Gazette.

Gazette	Description	Price
19	Tourism Development Bill, 2019. (Bill No. 4 of 2019)	13.00

TOURISM DEVELOPMENT BILL, 2019*(Bill No. 4 of 2019)***OBJECTS AND REASONS**

This Bill seeks to provide for classification or grading of accommodation establishments, regulation of tourism industry and for planning and implementation of policies relating to that industry.

Part I provides for preliminary matters such as short title, commencement and interpretations of various expressions used in the Bill.

Part II provides for the functions of the Ministry in the tourism sector, entering into agreements with other statutory bodies, international bodies or agencies in the private sector.

Part III provides for the development of classification system for accommodation establishment, grant of classification or grade and application for the grant of the classification or grading.

Part IV provides for compliance with minimum requirements, appointment of Inspectors and their powers of inspection, consequences including suspension for non-compliance with the minimum requirements, establishment of database of information on tourism business.

Part V provides for Appeals Board for filing appeal against the decisions of the Ministry, appointment of the members of the Appeals Board and the procedure in appeals.

Part VI provides for miscellaneous provisions such as offences, compounding of offences, and protection of officers for actions taken in good faith and Regulation making power of the Minister.

Dated this 13th day of March, 2019.

**FRANK D.R. ALLY
ATTORNEY-GENERAL**

TOURISM DEVELOPMENT BILL, 2019*(Bill No. 4 of 2019)*

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 tourism industry, grading and classification of accommodation establishments 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, 2019 and shall come into force on such date as the Minister may, by Notice published in the Gazette, appoint.

Short title and commencement

TOURISM DEVELOPMENT BILL, 2019*(Bill 4 of 2019)***ARRANGEMENT OF SECTIONS****PART I - 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 or grading criteria
6. Application for classification

PART IV - COMPLIANCE

7. Minimum requirements for licence
8. Appointment of Inspectors and their powers of inspection
9. Investigation of complaint
10. Information on tourism enterprises
11. Consequence of non-compliance

PART V - APPEALS BOARD

12. Appeals Board
13. Appeals

PART VI - MISCELLANEOUS

14. Offences
15. Compounding of offences
16. Protection of action taken in good faith
17. Regulations
18. Transitional provisions

Interpretation

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

“Appeals Board” means the Appeals Board established under section 12;

“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 the Act for the purpose of classification or grading of accommodation establishments;

“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 offers food and beverage services to guests and general public and other facilities;

“Inspector” means an Inspector appointed under section 8;

“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 offers its guests or clients accommodation on full board basis and other facilities;

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

“minimum requirements” means the minimum criteria for a hotel, guesthouse, self-catering establishment, island resort, restaurant or any tourism enterprise 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 the business of a person or a body of persons who or which carries 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 or guides, 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 - ADMINISTRATION

Functions
of Ministry

3. The Ministry shall —

- (a) develop and implement policies, programmes and guidelines in pursuance of the national objectives on tourism development;
- (b) promote efficient and sustainable development of tourism and to enhance its contribution to the national economy;
- (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 cultural and eco-tourism services;
- (h) ensure that disaster preparedness and risk

- management is integrated in the management plans of tourism enterprises;
- (j) co-ordinate the activities of other statutory bodies concerned with the development of tourism;
- (k) develop, evolve and where necessary adopt criteria for the enhancement of the standards of tourism enterprises, 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 tourism enterprises;
- (m) assist the tourism industry in preparing to respond to crisis regarding safety and security of tourists;
- (n) engage consultants both local and foreign, whenever necessary for the efficient discharge of its functions;
- (o) consult tourism bodies for the development of the tourism industry;
- (p) to formulate vertical integration policy on tourism;
- (q) do all such other acts as may be necessary or conducive to the attainment of all or any of the above functions.

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

- (a) any statutory agency or body established by the Government;

Agreement or
arrangement

- (b) any international bodies;
- (c) any agency in the private sector; or
- (d) any other person.

PART III - CLASSIFICATION SYSTEM

Classification
or grading
criteria

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

(2) The 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.

(3) A scheme under subsection (2) may provide for —

- (a) classification or grading of accommodation establishments on the grounds of, amongst others, their standards and quality of services and facilities;
- (b) addition, continuation and termination of the scheme; and
- (c) 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 classification or grading awarded in terms of the scheme.

(4) The scheme under subsection (2) may be revised taking into consideration the changing trends and guest expectations in the tourism industry.

(5) The Ministry shall classify or grade every

accommodation establishment as per the classification or grading criteria as may be prescribed.

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

(7) The Minister may make vertical integration policy on tourism by regulations.

6.(1) A person who intends to operate or operating an accommodation establishment shall apply to the Ministry for classification of his or her accommodation establishment in such form and manner together with such fees and documents 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

7.(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 hotel, self-catering, guest house, restaurant or any other tourism enterprise shall comply with the minimum requirements as may be prescribed.

Minimum
requirements
for licence

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

8.(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.

Appointment
of Inspectors
and their
powers 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 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 investigation to prevent illegal tourism operation;
- (d) do 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.

(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.

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

Investigation
of complaint

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

Information
on tourism
enterprises

(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.

Consequence
of non-
compliance

11.(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.

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 classification or grading; or
- (d) recommendation to the Licensing Authority for suspension or revocation of the licence.

PART V - APPEALS BOARD

Appeals
Board

12.(1) There shall be an Appeals Board consisting of the following members appointed by the President—

- (a) a Chairperson;
- (b) a representative of the Seychelles Tourism Board;

(c) a representative of the Fair Trading Commission.

(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 shall be a person having qualification and experience in the tourism sector and of good character and integrity.

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

- (a) holds office in, or is an employee of, a political party;
- (b) is an owner or operator of, or has any interest in, an accommodation establishment or in any tourism enterprise; or
- (c) 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 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 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 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 such a nature which renders it desirable that the Chairperson's appointment be terminated.

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

Appeals

13.(1) A person aggrieved by any decision of the Ministry under sections 6 and 11 may appeal to the Appeals Board.

(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 to reconsider the decision.

PART VI - MISCELLANEOUS

Offences

14.(1) A person who —

- (a) operates any accommodation establishment without the 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 10,

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

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

Compounding of offences

(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.

16. Any suit or other legal proceeding 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.

Protection of action taken in good faith

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

Regulations

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

- (a) national classification system for accommodation establishments under section 5(1);
- (b) classification or grading criteria under section 5(5);
- (c) minimum requirements under section 7;
- (d) the categories of accommodation establishments and tourism enterprises that shall provide information under section 10(2); and
- (e) the vertical integration within the tourism sector;

(f) compounding of offence.

Transitional
provisions

18.(1) All the existing accommodation establishments shall obtain the classification or grading under section 5(5) within such time as the Minister may notify by regulations.

(2) Notwithstanding the provisions of the Act, the regulations made under section 17(2) (c) may provide for specific time frame for compliance of the minimum requirements specified under section 7 of this Act.