

Government Gazette 14893

STATE PRESIDENT'S OFFICE

No. 1112.  
25 June 1993

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:-

NO. 72 OF 1993: TOURISM ACT, 1993.

ACT

To make provision for the promotion of tourism to and in the Republic; the further regulation and rationalization of the tourism industry; measures aimed at the maintenance and enhancement of the standards of facilities and services hired out or made available to tourists; and the co-ordination and rationalization, as far as practicable, of the activities of persons who are active in the tourism industry; with a view to the said matters to establish a board with legal personality which shall be competent and obliged to exercise, perform and carry out certain powers, functions and duties; to authorize the Minister to establish a grading and classification scheme in respect of accommodation establishments, the membership of which shall be voluntary; to authorize the Minister to establish schemes for prescribed sectors of the tourism industry, the membership of which shall be voluntary; to make provision for the registration of tourist guides; to prohibit any person to act for gain as a tourist guide unless he has been registered as a tourist guide in terms of the Act; to authorize the Minister to make regulations; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)  
(Assented to 17 June 1993.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:-

Definitions

1. In this Act, unless the context otherwise indicates-
  - (i) "accommodation establishment" means any place in or upon which the business of providing accommodation with or without meals is conducted for gain; (iii)
  - (ii) "board" means the South African Tourism Board mentioned in section 2; (vii)
  - (iii) "committee" means a committee mentioned in section 9; (v)
  - (iv) "financial year" means the period from 1 April in any year to 31 March in the ensuing year; (i)
  - (v) "insignia", in relation to any accommodation establishment, means the depictions, signs and symbols which by themselves

or in conjunction with one another, and together with the emblem of the board, indicate the grading which has been awarded, in terms of the scheme mentioned in section 18, in respect of the establishment, the category to which the establishment belongs and the nature of the services and facilities offered and provided by the establishment, and which makes known the fact that the board has awarded the grading; (iv)

- (vi) "Minister" means the Minister for Tourism; (vi)
- (vii) "prescribe" means prescribe by regulation; (x)
- (viii) "this Act" includes any regulation made under section 26; (ii)
- (ix) "tourism industry" means the organized industry which is concerned with the promotion and handling of tours to and in the Republic, and the provision of services and facilities to and the provision for the needs of persons who undertake such tours, in the preparation for such tours, while they are under way and during their stay at their destinations; (viii)
- (x) "tourist guide" means any person who for reward, whether monetary or otherwise, accompanies any person who travels within or visits any place within the Republic and who furnishes such person with information or comments with regard to any matter. (ix)

#### Establishment of South African Tourism Board

2. There is hereby established a juristic person which shall be known as the South African Tourism Board.

#### Object of board

3. The object of the board shall be to promote tourism by encouraging persons to undertake travels to and in the Republic, and with a view thereto to take measures in order to attempt to ensure that services which are rendered and facilities which are made available to tourists comply with the highest attainable standards.

#### Constitution of board

4. (1) The board shall consist of not fewer than 11 and not more than 15 members, who shall be appointed by the Minister in terms of subsection (2).

(2) (a) The Minister shall appoint as members of the board not fewer than 11 persons who in his opinion are, by virtue of their knowledge of and active involvement in the tourism industry, fit to serve on the board, and shall appoint as a member of the board the Administrator designated in terms of paragraph (b), to represent the provinces mentioned in the Provincial Government Act, 1986 (Act No. 69 of 1986), on the board.

(b) The Administrators of the said provinces shall designate one of their number in order to be appointed in terms of paragraph (a).

(c) The Minister shall, before he appoints a member of the board (except the member referred to in paragraph (b)), by notice in the Gazette invite all interested persons to submit to him, within the period mentioned in the notice, the names of persons who in the opinion of such interested persons are fit to be so appointed, stating the grounds upon which such opinion is based.

(3) The Minister shall appoint one member of the board as chairman and another member as vice-chairman of the board.

(4) If the chairman is for any reason unable to act as chairman the vice-chairman shall perform the functions of the chairman.

Persons who are disqualified from being members of board

5. No person shall be appointed as a member of the board-

- (a) if he is an unrehabilitated insolvent;
- (b) if he was at any time, within the Republic or elsewhere, convicted of an offence and was sentenced to imprisonment without the option of a fine;
- (c) if he is not a South African citizen and is not permanently resident within the Republic.

Vacation of office by members of board

6. (1) A member of the board shall vacate his office if-

- (a) any of the circumstances which preclude his appointment to the board becomes applicable to him;
- (b) he fails to comply with a condition of his appointment;
- (c) he is absent from three consecutive meetings of the board, without the consent of the chairman;
- (d) he submits his resignation in writing to the Minister.

(2) The Minister may at any time terminate the membership of a member of the board if there are in the opinion of the Minister sufficient reasons for doing so.

Period of office of members of board, and filling of vacancies

7. (1) Any member of the board shall, subject to the provisions of section 6, hold office for such period, but not exceeding three years, as the Minister may determine at the time of his appointment.

(2) If for any reason the office of a member of the board becomes vacant the Minister may appoint any person as a member of the board for the unexpired portion of the period of office concerned.

(3) Any person whose period of office has expired shall be eligible for reappointment.

Meetings and decisions of board

8. (1) The first meeting of the board shall be held at a time and place determined by the chairman, and thereupon the board shall meet at such times and places as may be determined by the board from time to time, but the board shall meet at least twice in a year.

(2) The chairman may at any time either of his own volition or at the written request of not fewer than five members of the board convene an extraordinary meeting of the board which shall be held at the time and place determined by the chairman.

(3) A notice whereby an extraordinary meeting of the board is convened shall state the purpose of that meeting.

(4) The quorum for a meeting of the board shall be a majority of all its members.

(5) If both the chairman and the vice-chairman are absent from a meeting of the board, the members present shall elect one of their number to preside at that meeting.

(6) The person who presides at a meeting of the board shall determine the procedure to be followed at that meeting.

(7) The decision of a majority of the members present at a meeting of the board shall constitute a decision of the board, and in the event of an equality of votes on any matter, the person presiding at the meeting shall in addition to his deliberative vote have a casting vote.

(8) No decision taken by or act performed on the authority of the board shall be invalid merely because of a casual vacancy on the board or because any person who was not entitled to sit as a member of the board, sat as such a member at the time when the decision was taken or the act was authorized, provided the decision was taken or the act was authorized by a majority of the members of the board who were then present and were entitled to sit as members.

#### Committees of board

9. (1) The board may, with the approval of the Minister, establish such committees as it may deem necessary for the exercise of its powers, the performance of its functions and the carrying out of its duties.

(2) A committee of the board shall consist of such number of members as may be determined by the board.

(3) A committee shall consist of members of the board, or of members of the board as well as other persons.

(4) The board may at any time dissolve a committee.

#### Delegation of powers, functions and duties

10. (1) The board may delegate to any committee or, with the concurrence of the Minister, and subject to such conditions and limitations as he may determine, an employee of the board, any power, function or duty assigned to or conferred or imposed upon the board in terms of this Act.

(2) The delegation of a power, function or duty under subsection (1) shall not preclude the exercise of that power, the performance of that function or the carrying out of that duty by the board.

#### Remuneration of members of board or committees

11. A member of the board or any committee shall be paid out of the funds of the board such remuneration and allowances as may be determined by the Minister with the concurrence of the Minister of State Expenditure.

#### Remuneration and other service benefits of employees of board

12. The board may pay or render available to persons in its employment such remuneration, allowances, bonuses, subsidies and pension and other service benefits as may be determined by the board with the approval of the Minister granted with the concurrence of the Minister of State Expenditure.

#### Powers of board

13. The board may in order to achieve its object mentioned in section 3-

- (a) with the approval of the Minister hire, purchase or acquire immovable property, and hire out, sell or otherwise dispose of immovable property of the board;
- (b) negotiate or co-operate with any government, provincial administration or local government, the Board for Public Resorts referred to in section 1 of the Extension of the Public Resorts Ordinance Act (Transvaal) (House of Assembly), 1990 (Act No. 105 of 1990), any other board established in terms of any law, or any other board or person, in the Republic or elsewhere, with regard to any matter which is directly or indirectly aimed at the achievement of the object of the board;
- (c) with the approval of the Minister, which may be granted either in respect of a particular case or generally, enter into agreements with a similar body, within the Republic or elsewhere, for the promotion of tourism in the respective areas for which the board and that body have been established;
- (d) open and conduct offices, in the Republic or elsewhere, which may be necessary or advisable for the effective and proper exercise of its powers, the performance of its functions and the carrying out of its duties;
- (e) with the approval of the Minister, granted with the concurrence of the Minister of Finance, borrow money from a money-lender, in the Republic or elsewhere;
- (f) insure itself against any loss, damage or risk which it may suffer or incur;
- (g) open and conduct banking accounts;
- (h) draw up, make, publish and sell or make available free of charge, books, guides, maps, publications, photographs, films, videos and similar matter, intended to inform persons, in the Republic or elsewhere, of attractions in the Republic;

- (i) gather, evaluate and process information relating to tourism in the Republic, and make it available to persons who are engaged in the tourism industry;
- (j) give advice and guidance to all persons who are engaged in the tourism industry;
- (k) with a view to the effective marketing of and the provision of information relating to any service, facility or product offered in connection with tourism, determine such informative and distinguishing signs as the board may deem fit, and may make such signs known by means of any of the publicity material referred to in paragraph (h);
- (l) promote the establishment of advisory committees on a national, regional or local level and promote and rationalize the activities of such committees as well as those of other persons and associations concerned in the tourism industry;
- (m) employ persons who are necessary for the exercise of the powers, the performance of the functions and the carrying out of the duties of the board;
- (n) negotiate and co-operate with any educational institution with a view to the institution, continuation or expansion of courses for the training of persons so as to equip them for the performance of any work with regard to the tourism industry;
- (o) make provision for the payment of pecuniary benefits to employees and former employees of the board and to the dependants of employees and former employees of the board in the case of the death or injury of such employees which occurs or occurred while they perform or performed their work as employees of the board;
- (p) perform any act which may contribute towards the achievement of the object of the board.

#### Accountability

14. (1) The chairman of the board shall be the accounting officer of the board and he shall be charged with the accountability in respect of all moneys received, and all payments made, by the board.

(2) The accounting officer shall-

- (a) keep full and correct record of all money received or spent by the board, and of the assets, liabilities and financial transactions of the board;
- (b) as soon as possible, but not more than three months after the end of the financial year of the board, draw up annual financial statements, which shall, with appropriate details, show money received by the board and expenditure incurred by the board and its assets and liabilities at the end of the financial year concerned.

(3) The records and annual financial statements mentioned in subsection (2), shall be audited by the Auditor-General.

Annual report

15. The board shall once in every year submit to the Minister a report on its affairs and activities during the preceding financial year.

Funds of board

16. (1) The funds of the board shall consist of-

- (a) money appropriated by Parliament for the purpose;
- (b) income derived in terms of the provisions of this Act;
- (c) donations or contributions received by the board from any source.

(2) Subject to the provisions of subsection (4) the board shall use its funds to defray expenditure incurred in connection with the exercise of its powers, the performance of its functions and the carrying out of its duties in accordance with the appropriate statement of its estimated income and expenditure mentioned in subsection (3), as approved by the Minister: Provided that the board-

- (a) may use any amount or part of an amount which is in accordance with such statement required to be used in connection with a particular matter, for any other purpose in connection with the performance of its functions;
- (b) shall notwithstanding the provisions of paragraph (a) use donations and contributions contemplated in subsection (1)(c) in accordance with the conditions, if any, imposed by the donor or contributor.

(3) (a) The board-

- (i) shall in every financial year before or on the date determined by the Minister, either generally or in respect of a particular financial year, submit a statement of its estimated income and expenditure during the ensuing financial year; and
- (ii) shall in respect of additional expenses in connection with its functions in any financial year, submit a supplementary statement of its estimated expenses in respect of that financial year,

to the Minister for his approval, granted with the concurrence of the Minister of State Expenditure.

(b) The board shall not incur any expenditure which may cause the total amount approved under paragraph (a) to be exceeded.

(4) The board may invest with the Corporation for Public Deposits established by section 2 of the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984), or in any other manner determined by the Minister with the concurrence of the Minister of Finance, any unexpended portion of its funds.

Submission of balance sheet, statement of income and statement of source

and application of funds of board

17. The board shall as soon as possible after the end of a financial year after completion of the annual audit submit the following to the Minister, namely-

- (a) an audited balance sheet;
- (b) an audited statement of income;
- (c) an audited statement of the source and application of its funds.

Minister may establish grading and classification scheme in respect of accommodation establishments

18. (1) The Minister may upon the recommendation of the board, with a view to the maintenance or enhancement of the standards and the quality of facilities and services rendered or made available by persons conducting accommodation establishments, establish a grading and classification scheme in respect of accommodation establishments.

(2) The Minister may for the purposes of the application of a scheme apply any basis of differentiation which he may deem fit, and may classify accommodation establishments into different classes on the ground of, inter alia, the nature extent, variety, availability and quality of the facilities and services rendered or made available by such establishments.

(3) The Minister may, if it is in his view necessary for the proper conduct or continuation of an effective grading and classification scheme, or to keep abreast with developments in the tourism industry, from time to time amend the provisions of such a scheme.

(4) The acquisition, continuation and termination of membership of a scheme shall be governed by the provisions of the scheme.

(5) The board shall in respect of any accommodation establishment classified and graded in terms of a scheme referred to in subsection (1) grant authority to the person conducting the establishment to use and display in respect of that establishment the prescribed insignia, which shall include a depiction or depictions of a star or a number of stars which indicate the grading awarded in respect of that establishment in terms of the scheme.

(6) The board shall keep a record of all persons conducting accommodation establishments and who are members of a grading and classification scheme, and of all establishments graded and classified in terms of such a scheme.

Minister may establish schemes in respect of certain prescribed sectors of tourism industry

19. (1) The Minister may in respect of any prescribed sector of the tourism industry, other than accommodation establishments, on the recommendation of the board and after consultation with persons who are active in such sector, establish schemes with a view to the maintenance or enhancement of the standards of services or facilities rendered or made available by persons who are active in that sector.



(2) The provisions of section 18(2), (3) and (4) shall mutatis mutandis apply in respect of services and facilities comprising the sector referred to in subsection (1).

(3) If the Minister intends to establish a scheme in terms of subsection (2) for any sector which involves the functions assigned to another Minister in terms of any law, he shall establish such scheme with the concurrence of such other Minister.

Registration of tourist guides, classes of tourist guides, and disqualifications and qualifications of tourist guides

20. (1) The board shall designate an employee of the board as Registrar of Tourist Guides, who shall exercise such powers, perform such functions and carry out such duties as may be conferred upon, assigned to or imposed upon him in terms of this Act.

(2) The registrar shall keep a register of tourist guides and shall record in such register the prescribed particulars with regard to tourist guides.

(3) The board shall for the purposes of this Act determine the different classes of tourist guides.

(4) No person shall be registered as a tourist guide in terms of this Act unless he, when he appears as required by section 21 (3), shows that he has the requisite knowledge of the matters specified in subsection (5).

(5) The knowledge contemplated in subsection (4) shall relate to the history, geography, fauna, flora, climate, availability of medical and emergency services, background and culture of the different peoples, infrastructure of the tourism industry and the economic circumstances in and of the geographical area in question.

(6) In order to be registered as a specialist tourist guide in respect of any area or matter the person applying for such registration shall possess specialized knowledge, to the satisfaction of the registrar, of the area or matter to which the application relates.

Procedure relating to registration of tourist guides

21. (1) Any person who wishes to be registered as a tourist guide shall in the prescribed manner apply to the registrar, and such application shall be accompanied by the prescribed registration fee.

(2) Upon receipt of such an application and the registration fee the registrar may request the applicant to furnish such additional particulars and information as he may deem necessary in order to consider the application properly.

(3) An applicant referred to in subsection (1) shall upon the request of the registrar appear before him in person and shall furnish such additional particulars and information as may be required by the registrar in order to enable the registrar to decide whether the application should be granted.

(4) If the registrar after he has considered the information and particulars contemplated in subsections (2) and (3) is satisfied that the

applicant complies with the prescribed requirements for registration as a tourist guide falling within any class determined under this Act, he shall register the applicant as a tourist guide.

(5) When the registrar registers any person as a tourist guide, he shall issue to him a registration certificate and a badge, which shall be in the prescribed form.

(6) (a) A registration as tourist guide shall be valid for a period of one year, reckoned from the date of issue of the registration certificate.

(b) Any person registered as a tourist guide shall before the end of the period for which he has been registered, indicate to the registrar whether he wishes to be registered as a tourist guide in respect of the next ensuing period of one year, and if he indicates that he wishes to be so registered he shall upon the payment of the prescribed fee be reregistered.

(7) (a) If a tourist guide has in the opinion of the registrar failed to comply with any condition subject to which he has been thus registered, or if in the opinion of the registrar it is not in the public interest that a tourist guide should continue to be so registered, the registrar may by notice sent by registered post, direct that tourist guide to advance within a period specified in the notice, of not fewer than 30 days from the date of the notice, reasons why his registration as a tourist guide should not be withdrawn.

(b) The registrar may by notice sent by registered post suspend the registration as such of the tourist guide concerned, pending the decision of the registrar under paragraph (a).

(8) (a) Any person who considers himself aggrieved by any decision or action of the registrar may appeal to the board against the decision or action in question, and the board may confirm, set aside or amend the decision or action.

(9) (a) No person who has not been registered as a tourist guide or whose registration as a tourist guide has been suspended shall for reward, whether monetary or otherwise, act as a tourist guide.

(b) A person who has been registered as a tourist guide in respect of a particular class referred to in subsection (4) may act as a tourist guide only in respect of the area or matters determined in respect of that class, as have been set out in the registration certificate issued to that person.

(10) No person may for the promotion of any business undertaking conducted by him employ or continue to employ as a tourist guide any person who has not been registered as a tourist guide under subsection (5), or who has been so registered but whose registration as such has been suspended under subsection (6) (b)

Duty of seller of travelling facilities to destinations in foreign countries

22. Any person who in the course of his business sells facilities for a journey to any destination in a foreign country shall when selling such facilities offer in the manner prescribed to the buyer thereof his assistance in order to enable such buyer to obtain insurance which would be

sufficient to enable the buyer to obtain alternative travelling facilities for his return journey to the Republic in any case where the person who in terms of the agreement in question is obliged to provide such facilities should fail or should for any reason be unable to do so.

#### Declaration of interests

23. When the board or any committee considers any matter in which a member thereof or the spouse of a member has a pecuniary interest, that member shall disclose the nature, extent and particulars of that interest to the board or committee, as the case may be, and if such interest is a direct financial interest, such member shall not take part in the discussions of the board or the committee concerned which take place while that matter is being considered by the board or the committee.

#### Transitional provisions

24. (1) Anything done by the South African Tourism Board established by section 2 of the South African Tourism Board Act, 1983 (Act No. 100 of 1983) - in this section referred to as the Tourism Board-in terms of the South African Tourist Corporation Act, 1947 (Act No. 54 of 1947), the Hotels Act, 1965 (Act No. 70 of 1965), the Tour Guides Act, 1978 (Act No. 29 of 1978), or the South African Tourism Board Act, 1983, and which could have been done by the board in terms of any provision of this Act, shall be deemed to have been done by the board in terms of the last-mentioned provision.

(2) All assets, rights, obligations and liabilities of the Tourism Board are hereby transferred to the board.

(3) Money in the Travel Agents Fidelity Fund established by section 30 of the Travel Agents and Travel Agencies Act, 1983 (Act No. 58 of 1983), shall at the commencement of this Act be paid over to the board, which shall deal therewith in accordance with subsection (4), and all other assets, rights, liabilities and obligations of the Travel Agents Board established by section 2 of the first-mentioned Act, shall at such commencement pass to the board.

(4) The board shall with due regard to the liabilities and obligations which passed to it in terms of subsection (3), and after it has made provision for the satisfaction of any liability which may rest upon it in consequence of such passing, pay over the remainder of the money which passed to it in terms of this section to the persons who made contributions to the fund OF shall as far as practicable apply it to their benefit.

(5) No levy, tax, transfer duty, stamp duty or any other money imposed or levied in terms of any law in respect of the acquisition by the board of any assets, rights, liabilities or obligations shall be payable in terms of this section.

Power of board to inspect any accommodation establishment if requested to do so

25. The board may at the request of any person who conducts or intends to conduct any accommodation establishment and upon payment of the prescribed fee inspect any accommodation establishment and may issue a document in the prescribed form stating that such establishment would have complied with any relevant provisions of a scheme referred to in section

18(1) had such establishment been evaluated with reference to such provisions.

#### Regulations

26. The Minister may after consultation with the board make regulations in respect of any matter which may be dealt with by the Minister in terms of this Act, and in respect of anything which in his opinion may be conducive to the effective application of the provisions of this Act.

#### Promotion of legislation relating to tourism industry

27. The Minister may upon the recommendation of the board promote legislation which is aimed at the promotion of the standard of any matter relating to the tourism industry, including transport and travelling services, restaurants and other similar services and facilities provided or rendered available in the Republic.

#### Offences and penalties

28. Any person who-

- (a) professes to be a member of a grading and classification scheme referred to in section 18, or of a scheme referred to in section 19, while he is not such a member;
- (b) uses in relation to any accommodation establishment conducted by him any depiction or depictions of a star or stars, unless he is a member of a scheme referred to in paragraph (a);
- (c) uses in relation to any accommodation establishment conducted by him an insignia depicting a number of stars which is greater than the number which he is authorized to depict in terms of such scheme;
- (d) contravenes section 21(9)(a) or (10);
- (e) fails to render his assistance as required by section 22 to a buyer referred to in that section,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.

#### Repeal of laws

29. Subject to the provisions of section 24 the laws mentioned in the Schedule are hereby repealed.

#### Short title and commencement

30. This Act shall be called the Tourism Act, 1993, and shall come into operation on a date fixed by the State President by proclamation in the Gazette.

#### Schedule

#### LAWS REPEALED

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No. and year of law	Title	Extent of repeal
Act No. 54 of 1947	South African Tourist Corporation Act, 1947	The whole
Act No. 24 of 1951	South African Tourist Corporation Amendment Act, 1951	The whole
Act No. 36 of 1952	South African Tourist Corporation Amendment Act, 1952	The whole
Act No. 40 of 1960	South African Tourist Corporation Amendment Act, 1960	The whole
Act No. 93 of 1963	General Law Further Amendment Act, 1963	Sections 4, 5, 6, 7, 8 and 9
Act No. 39 of 1964	South African Tourist Corporation Amendment Act, 1964	The whole
Act No. 70 of 1965	Hotels Act, 1965	The whole
Act No. 70 of 1968	General Law Amendment Act, 1968	Section 33
Act No. 101 of 1969	General Law Amendment Act, 1969	Section 25
Act No. 17 of 1970	General Law Amendment Act, 1970	Section 6
Act No. 57 of 1975	General Law Amendment Act, 1975	Section 30
Act No. 59 of 1977	South African Tourist Corporation Amendment Act, 1977	The whole
Act No. 71 of 1977	Hotels Amendment Act, 1977	The whole
Act No. 29 of 1978	Tour Guides Act, 1978	The whole
Act No. 38 of 1979	Hotels Amendment Act, 1979	The whole
Act No. 26 of 1980	South African Tourist Corporation Amendment Act, 1980	The whole
Act No. 32 of 1982	Hotels Amendment Act, 1982	The whole
Act No. 58 of 1983	Travel Agents and Travel Agencies Act, 1983	The whole
Act No. 100 of 1983	South African Tourism Board Act, 1983	The whole
Act No. 59 of 1989	South African Tourism Board Amendment Act, 1983	The whole