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THE TOURISM LAW (10 OF 1974)

(1995 Revision)

Consolidated with Laws 3 of 1979, 11 of 1988, 6 of 1990 and 6 of 1994.

Revised under the Law Revision Law (19 of 1975).

Originally enacted-
Law 10 of 1974-19th March, 1974
Law 3 of 1979-9th April, 1979
Law 11 of 1988-9th September, 1988
Law 6 of 1990-20th February, 1990
Law 6 of 1994-14th September, 1994

Consolidated and revised this 4th day of April, 1995.

TOURISM LAW

(1995 Revision)

ARRANGEMENT OF SECTIONS

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TOURISM LAW

(1995 Revision)

1. This may be cited as the Tourism Law (1995 Revision). Short title
2. In this Law, unless the context otherwise requires- Definitions
 - “apartments” means tourist accommodation having the character of separate flats or dwelling units situated on a common site or on contiguous sites whether or not held as strata titles under the Strata Titles Registration Law, 1973; Law 14 of 1973
 - “Board” means the Hotels Licensing Board established by section 7;
 - “cottage colony” means tourist accommodation having the character of a group of cottages or beach dwellings;
 - “Council” means the Tourism Advisory Council established under section 6;
 - “Department” means the Department of Tourism established under section 5(1);
 - “Director” means the Director of Tourism referred to in section 5(2);
 - “Governor” means the Governor in Council;
 - “guesthouse” means tourist accommodation having the character of a private dwelling house or more than one such dwelling house situated on a common site or on contiguous sites;
 - “hotel” means tourist accommodation consisting of not less than ten guest rooms and providing for food and beverage facilities for its resident guests;
 - “licence” and its cognates refers to a licence under this Law;
 - “Minister” means the Member of Executive Council for the time being charged with responsibility for tourism in accordance with section 9 of the Constitution;
 - “officer” means an officer of the Department;
 - “operator” and its cognates has reference to one or more persons having the sole or joint control of tourist accommodation;
 - “prescribed” means prescribed by this Law or any Regulations;

Law 13 of 1990	<p>“tourist” means a visitor to the Islands for the purposes of section 44(1) of the Immigration Law 1990; and</p> <p>“tourist accommodation” means overnight or day to day accommodation available to tourists which is provided in the course of a business and is under the management of an operator and includes a guest house, a cottage colony, a group of apartments and a hotel.</p>
Functions of Minister	<p>3. The function of the Minister is to promote, foster and develop tourism.</p>
Scope of Minister’s function	<p>4. (1) In the discharge of his function the Minister may take all measures he deems fit for promoting the Islands as a year round tourist resort and for that purpose shall use his best endeavours to-</p> <ul style="list-style-type: none">(a) promote and secure such increased travel facilities for tourists as may be required;(b) secure the most favourable arrangements for the entry of visitors in the Islands;(c) encourage the development of amenities calculated to attract visitors to the Islands;(d) promote research, experiments and operations to improve the basis of tourism and to control factors which may affect it adversely;(e) increase understanding of the economic benefits of tourism; and(f) collect and collate information calculated to enable him to discharge the above functions effectively. <p>(2) Where power is conferred upon the Minister by subsection (1) to undertake or promote any measure, it includes a power to assist or cooperate with any person or body of persons for that purpose.</p>
Department of Tourism	<p>5. (1) There is hereby established a Department of Government called the Department of Tourism charged with the duty of assisting the Minister in the performance of his functions under this Law.</p> <p>(2) The Department shall, subject to the direction and control of the Minister, be under the supervision of a public officer known as the Director of Tourism who, together with such officers as may be considered necessary, shall be appointed by the Governor from time to time, and the Department shall be maintained out of such funds as may be provided by the Legislative Assembly.</p>
Tourism Advisory Council	<p>6. (1) There is hereby established the Tourism Advisory Council to be appointed by the Governor on the first day of January in each year and from time to time at his discretion, which shall consist of a chairman and not more than</p>

eight nor less than six other members who shall hold office until the end of each calendar year or at the pleasure of the Governor.

(2) No public servant shall be a member of the Council.

(3) The Council shall keep under review the situation in the Islands with respect to tourism matters, and shall give to the Minister, where it considers it expedient to do so, advice on measures which in its opinion ought to be taken thereon.

(4) The Council shall meet *inter alia* at least once in each quarter of every year with the Director in attendance.

(5) In connection with the performance of his functions, the Minister may consult the Council from time to time and may call meetings of the Council for that purpose but shall not be bound by its advice.

(6) Four members present shall form a quorum for the conduct of the business of the Council.

(7) In all other matters the Council may regulate its own procedure.

7. (1) There is hereby established a Board called the Hotels Licensing Board Hotels Licensing Board which shall consist of -

- (a) the Minister (as chairman);
- (b) four other members (none of whom shall be a public servant) to be appointed from time to time by the Governor to hold office at the pleasure of the Governor; and
- (c) the Director who shall act as chairman in the absence of the Minister.

(2) The Board shall perform its functions through the Director.

(3) The Board shall-

- (a) meet from time to time as necessary for the purpose of discharging its duties under this Law;
- (b) keep records of its proceedings, decisions and reasons for the latter;
- (c) if so requested in that behalf, give an opportunity of audience to applicants or their representatives before reaching its decisions concerning them; and
- (d) arrive at its decisions by a majority vote,

and may in all other respects regulate its own procedure.

Operators to be licensed 8. (1) No person shall operate tourist accommodation unless licensed in that behalf by the Board.

(2) On or before the prescribed day in each year every operator desiring to be licensed shall make application to the Board through the Director in the prescribed form and shall tender with such application the prescribed fee.

(3) For the purposes of subsection (2) "the prescribed day" means-

- (a) in respect of an application for a licence to operate a group of apartments, a cottage colony or a guesthouse, 1st August; and
- (b) in respect of an application to operate a hotel, 1st October.

(4) Licences granted under this section shall, subject to section 9(3) expire-

- (a) on 31st August in each year, in respect of a licence to operate a group of apartments, a cottage colony or a guesthouse; and
- (b) on 31st October in each year, in respect of a licence to operate a hotel.

(5) Licences shall be renewable upon application made to the Board through the Director in the prescribed form accompanied by the prescribed fee.

(6) Subject to section 13, the Board shall grant or renew licences, as the case may be, to those operators who make application in that behalf in the prescribed manner, pay the prescribed fee and conform with the prescribed minimum requirements.

(7) Before granting or renewing a licence under subsection (6), the Board shall require and have regard to reports about the tourist accommodation from or on behalf of -

Law 6 of 1981

(a) the Chief Environmental Health Officer appointed under section 3(1) of the Public Health Law, 1981;

1995 Revision

(b) the Chief Fire Officer appointed under section 3 of the Fire Brigade Law (1995 Revision);

(c) the Director; and

(d) such other public servant as it considers desirable.

(8) Any person mentioned in paragraphs (a) to (d) of subsection (7) may enter on and inspect any tourist accommodation or any place within the curtilage thereof at any reasonable time for the purpose of making the report to the Board

required by subsection (7), and shall forthwith after such entry and inspection make his report.

(9) Whoever prevents or obstructs the entry onto tourist accommodation or any place within the curtilage thereof of any person in the execution of his duty under subsection (8) is guilty of an offence and liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months.

(10) The grant or renewal of a licence under this section shall be made by the Board-

- (a) on or before 1st September in each year in respect of a licence to operate a group of apartments, a cottage colony or a guesthouse; and
- (b) on or before 1st November in each year in respect of a licence to operate a hotel.

(11) In granting licences the Board shall classify the tourist accommodation in respect of which the licence is granted in the category of a guesthouse, a cottage colony, a group of apartments or a hotel, as the case may be, and shall issue the licence in the prescribed form to the operator who shall, in a conspicuous place and so that it is easily legible, display it in the office from which the management of the relevant tourist accommodation is carried on.

9. (1) The Board or any officer may at any reasonable time inspect any tourist accommodation in order to ascertain whether or not the prescribed minimum requirements are being complied with.

Board's power of inspection and control

(2) The Board or any officer shall, at any reasonable time and in order to ascertain whether or not the prescribed minimum requirements are being complied with, inspect at least once in every year-

- (a) all licensed apartments, cottage colonies and guesthouses, on or before 1st July; and
- (b) all licensed hotels, on or before 1st September.

(3) If, in the opinion of the Board, any operator has failed to comply with the prescribed minimum requirements the Board may withhold, revoke, suspend or refuse to renew such operator's licence, or may impose conditions subject to which such licence shall be granted or continued, by giving seven days notice to the operator to that effect in the prescribed form.

(4) In any case where the Board has withheld, revoked, suspended or refused to renew a licence, it may, at any time, post and keep posted on the tourist accommodation a notice thereof in the prescribed form.

- Security at checking in
10. (1) An operator who fails to take all reasonable security precautions for the checking in of a tourist at the tourist accommodation which he is licensed to operate shall be guilty of an offence.
- (2) For the purposes of this section-
- (a) an operator fails to take all reasonable security precautions if-
- (i) he has not been present at the checking in of the tourist and has not delegated supervision of the checking in to an authorised person; or
- (ii) he or an authorised person has left the keys to any part of the licensed tourist accommodation in a place which is not under the immediate supervision of the operator or an authorised person; and
- (b) a person is authorised to supervise the checking in of a tourist at licensed tourist accommodation-
- (i) if he has been authorised in writing by the operator of that tourist accommodation in respect of the checking in there of tourists; and
- (ii) the operator has sent a return to the Board giving the prescribed details of each such authorised person.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months.
- (4) In any proceedings for an offence under this section, it shall be a defence for the operator charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- Appeal against decision of Board under section 9
11. (1) An operator or prospective operator who is aggrieved by a decision of the Board made under section 9 may, within fifteen days of service upon him of notification of the decision, appeal to the Governor by notice in writing in the prescribed manner and in accordance with the prescribed procedure and the decision of the Governor shall be final and binding upon the operator.
- (2) Notwithstanding any appeal under subsection (1), the decision of the Board shall, until the decision of the Governor is given, remain in full force and effect.
- Minister may object to applications for planning permission
12. Whoever makes application to the Central Planning Authority or, in the case of Cayman Brac and Little Cayman, the Development Control Board for planning permission in respect of accommodation intended wholly or partly for the use of tourists, whether by way of new development or modification of existing development, shall notify the Minister of the said application in the manner

prescribed and enclose a copy of such notification with his application to such Authority or Board and, if the Minister gives notice to such Authority or Board of his objection to the said application, the Authority shall not grant such application until it has given the Minister a reasonable opportunity of objecting thereto:

Provided that if no objection is made by the Minister within twenty-one days of the receipt by such Authority or Board of the application for planning permission accompanied by the copy of the notification, the Authority or Board shall proceed upon the assumption that the Minister has no objection to the application.

13. (1) Notwithstanding section 8, the Governor may, having regard to the economic, social and all other interests of the Islands, by order, declare that for a specified period not exceeding five years the construction of any new hotel in Grand Cayman or any part thereof is prohibited:

Governor may declare a moratorium on construction of new hotels

Provided that at any time during the specified period he may, having regard to any changes in the said economic, social and other interests of the Islands, by notice published in the Gazette, rescind the order.

(2) Where an application is made to the Central Planning Authority for permission to construct a hotel during the period specified in any order made pursuant to subsection (1), the Central Planning Authority shall refuse the application; so however that the Central Planning Authority shall not be liable for payment of compensation under Part IV of the Development and Planning Law (Revised) or any other enactment in respect of any such refusal:

1978 Revision

Provided that any such refusal shall be without prejudice to the right of the applicant to re-apply at any time after the period prescribed in the order has expired or the order has been rescinded.

(3) An order made under subsection (1) shall not affect any permission granted prior to the effective date of the order but in respect of which work has not been completed or commenced at that date, except that in any such case, an application for renewal or extension of such permission shall not be granted.

14. (1) Whoever fails to make any return required of him to be made under this Law or any Regulation or who fails to comply with any order or direction of the Board acting under its powers under this Law or to submit to any inspection under section 9(1) is guilty of an offence and liable upon summary conviction to a fine of one thousand dollars and to imprisonment for six months.

Offences and penalties

(2) Whoever operates or attempts or offers to operate any tourist accommodation when not licensed in that behalf is guilty of an offence and is liable upon summary conviction to a fine of one hundred dollars per day in respect of every tourist to whom such accommodation is provided or offered.

Regulations

15. The Governor may make regulations -

- (a) providing for the registration of tourist facilities offered or made available to visitors to the Islands;
- (b) for the keeping of records relating to tourists;
- (c) for the registration and control of facilities offered or made available to visitors to the Islands within the Islands and within territorial waters;
- (d) prescribing minimum requirements for licensed tourist accommodation;
- (e) prescribing anything required to be prescribed under this Law;
- (f) for the internal regulation of the Department; and
- (g) for procedural requirements of this Law.

Application of Trade
and Business Licensing
Law (Revised)

16. For the removal of doubt it is hereby declared that no licence is required under the Trade and Business Licensing Law (Revised) in respect of tourist accommodation licensed under this Law and, upon first obtaining a licence under this Law, an operator shall be entitled to receive a *pro rata* rebate for each complete month in respect of which a relevant licence held under the Trade and Business Licensing Law (Revised) remains unexpired.

Publication in consolidated and revised form authorised by the Governor in Council this 4th day of April, 1995.

Mona N. Banks-Jackson
Clerk of Executive Council