

# BRIEFING TO THE PORTFOLIO COMMITTEE ON TOURISM

## DRAFT REGULATIONS: TOURIST GUIDING

13 May 2016

Department of Tourism  
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Department:  
Tourism  
REPUBLIC OF SOUTH AFRICA



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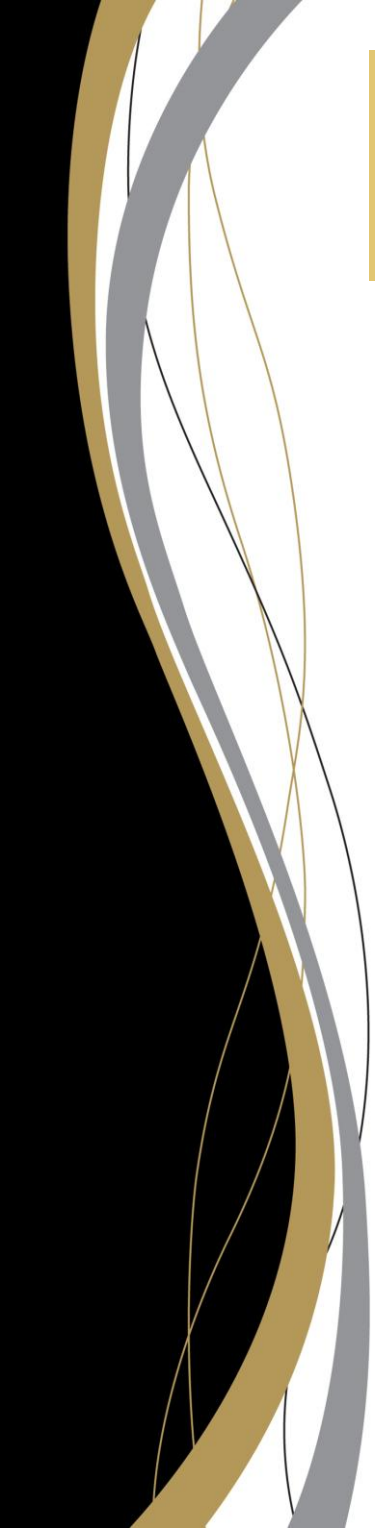
# CONTENT

- Legislation pertaining to Tourist Guides
- Importance of reviewing the Tourism Legislation
- The Tourism Act. No. 3 of 2014
- Enabling provisions
- Procedures to register Tourist Guides
- Other changes to the Regulations
- Refusal, Disqualifications, Disciplinary Matters and Laying of Charges
- Way forward



# LEGISLATION PERTAINING TO TOURIST GUIDES

- The Tourism Act of 1993 which was later repealed by the Tourism Act, no. 3 of 2014 defines the scope of guiding and provides framework for the conduct and governance of the tourist guiding profession.
- The Regulations pertaining to Tourist Guides was promulgated in 1994 and sets out the procedures for the registration of tourist guides, the drafting of the code of conduct and ethics, including endorsements and suspension procedures, fines to be levied for non-compliance and procedures for appeals.



# LEGISLATION PERTAINING TO TOURIST GUIDES (CONT.)

- With the promulgation of the Tourism Amendment Act in 2000, the tourist guiding function was transferred from SATOUR (now SAT) to DEAT (now NDT), additional Regulations i.e. “Regulations with Respect to Tourist Guides, 2001” was passed to support the amended Act.
- This means to date, that the 1994 and the 2001 Regulations are both in effect.



# IMPORTANCE OF REVIEWING THE TOURISM LEGISLATION

- The Tourism Act, 1993 as well as the Regulations pertaining to Tourist Guiding, 1994, pre-dated the Constitution of the Republic of South Africa.
- There were a number of gaps identified in the Act and Regulations which required urgent amendments such as non-alignment of the Act with the Regulations, inconsistency in the use of terminology, lack of important annexures which were required to process tourist guide applications etc.
- These gaps had and continue to have serious implications on the function of both the National and Provincial Registrars of Tourist Guides as well as the guiding sector.

# TOURISM ACT, NO.3 of 2014

- The Tourism Act, No. 3 of 2014 came into effect on 16 June 2016.
- Chapter 6 is dedicated to the guiding function.
- The Act defines tourist guides as:  
*“A tourist guide means any person registered as such under section 50 and who for reward accompanies any person who travels within or visits any place within the Republic and who furnishes such person with information or comments.”*
- The Act contained the following key changes:
  - Registration validity period of 3 years (not 2 years).
  - The vehicle carrying capacity and driver guide requirements were removed.
  - Fines for non-compliance were increased.

# ENABLING PROVISIONS

**Regulations are developed based on the enabling provisions contained in the Act. For tourist guiding, the enabling provisions are as follows:**

## **Provincial Registrars (Section 49)**

Keep a register (database) of tourist guides with prescribed particulars; make endorsements against a tourist guide who has been suspended in the prescribed manner.

## **Procedure related to registration of tourist guides (Section 50)**

Registration process, prescribed form; prescribed fee; prescribed quality assurance process; registration certificate (ID card) and badge, prescribed renewal form; prescribed form for additional competencies; damaged, destroyed or lost ID card/badge; prescribed fields of specialisation (categories, type).



# ENABLING PROVISIONS (CONT.)

## **Code of Conduct and Ethics (Section 52)**

National Registrar must prepare and publish the code of conduct and ethics in a prescribed manner.

## **Disciplinary measures (Section 55)**

Provincial Registrar may issue a prescribed fine not exceeding R10 000 if a tourist guide is found guilty of misconduct; must make a prescribed endorsement on the register.

## **Appeals (Section 56)**

Prescribed procedure prescribed fee for lodging and addressing appeals. The National Registrar is responsible for dealing with appeals.



# PROCEDURE TO REGISTER TOURIST GUIDES

## Regulations, 1994, 2001

**The Regulations (1994 and 2001) referred to the following annexures. However, the actual annexures were omitted in the Regulations.**

- Annexure A – Registration form
- Annexure B – Registration certificate (ID card)
- Annexure C - Badge
- Annexure D – Renewal form
- Annexure E – Additional competence/specialisation form
- Annexure F – Data fields
- Annexure G – Fields of specialisation

## Draft Regulations, 2016

- The new Regulations have now made provisions for annexures and forms to be included.
- Annexures (A, D, E, F) from the previous Regulations have now been included and redesigned into one form (referred to now as Form A).
- Annexure (B, C) i.e. the ID card and badge have been included and redesigned to incorporate security features and is now referred to as Annexure A and B respectively.
- Annexure G has been replaced with Annexure D.

# PROCEDURE TO REGISTER TOURIST GUIDES (CONT.)

## Regulations, 1994, 2001

### 1994

- Refers to modules, classes of guides (i.e. local, regional, national and specialist) and regions (incl. Orange Free State, Eastern Transvaal etc.)
- Fluency in English
- Registration fee: R160 per year; Renewal fee: R60 per year; Specialisation: R60 per year; Re-registration for specialisation: R60 per year; Additional class: R60

### 2001

- Refers to THETA qualification
- Registration fee: R240; Renewal fee: R240; Additional competence: R60; Damaged, destroyed lost ID/badge: R30

## Draft Regulations (2016)

- Annexure D now includes the category and type of guide which are now aligned to the NQF: site, provincial and national; adventure, culture and nature).
- Fluency in English and THETA qualification removed (competency not determined by NDT).
- The registration form includes the requirements for each application type including the prescribed fees that must be paid for each application. Fees have not been adjusted and still remain the 2001 fees.

# OTHER CHANGES TO THE REGULATIONS

## Regulations, 1994, 2001

- Regulations prescriptive regarding **data fields** and not aligned to the registration form. Some of the fields listed in the regulations are not included in the form (vice versa)
- 2001 Regulations include process for **endorsements** regarding suspension of registration.
- **Code of Conduct and Ethics** included specific names of associations that the National Registrar needed to consult with.

## Draft Regulations (2016)

- Data fields now aligned to registration form. All information requested on the form will be captured on the register.
- The section on endorsements remain unchanged.
- The specific list of stakeholders was removed and reference now made to consultations with MECs, Provincial Registrars and stakeholder groupings.

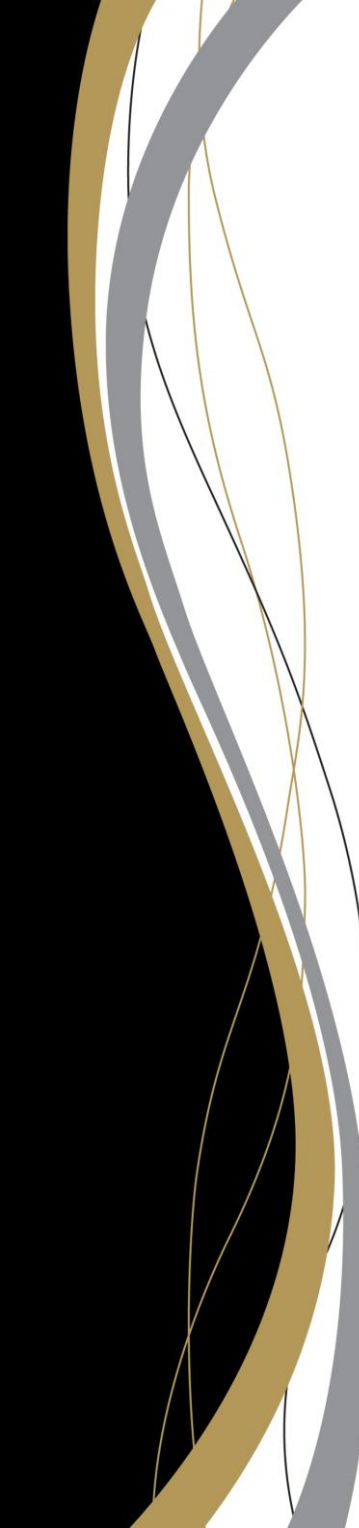
# OTHER CHANGES TO THE REGULATIONS (CONT)

## Regulations, 1994, 2001

- Reference to a **fine of R500** for misconduct under Disciplinary measures.
- Process of **appeals** included with appeals fee of R200 included.

## Draft Regulations (2016)

- An Annexure C has been included listing possible contraventions under misconduct with minimum fines included.
- Appeals process and fee remains the same.



# **REFUSAL, DISQUALIFICATIONS, DISCIPLINARY, LAYING CHARGES**

**The Act also provides for the following administrative processes which do not require further Regulations to be developed as they are sufficiently addressed in the Act.**

## **Refusal of applications**

- No regulations. Actions are prescribed under Section 50 of the Act.

## **Disqualifications**

- No regulations. Actions are prescribed under Section 54 of the Act.

## **Disciplinary measures**

- No regulations. Actions are prescribed under Section 55 of the Act besides the fines which are contained in the Regulations.

## **Laying charges with SAPS**

- No regulations. Actions are prescribed in the Act.

## **Disputes**

- No regulations. Actions are prescribed under Section 58 of the Act.



# WAY FORWARD

- Draft Regulations were republished on 15 April 2016 and open for public comments for 60 days.
- Stakeholder consultations (May – June 2016) in all provinces.
- Post Socio-Economic Impact Assessment (SEIAS) as required by Department of Planning, Monitoring and Evaluation (DPME) (July).
- Presentations to the Clusters and Cabinet (May – July)
- Finalisation of Draft Regulations (July)
- The Regulations 1994 and 2001 to be repealed.
- Anticipate that the Regulations for Tourist Guiding, 2016 will be effective in August 2016.



**THANK YOU**